

[COMMITTEE PRINT]

April 22, 1998

Amendment in the Nature of a Substitute

To H.R. 3150

Offered by Mr. Gekas

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Bankruptcy Reform Act of 1998”.

4 (b) TABLE OF CONTENTS.—The table of contents of
5 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CONSUMER BANKRUPTCY PROVISIONS

Subtitle A—Needs-Based Bankruptcy

Sec. 101. Needs-based bankruptcy.

Sec. 102. Adequate income shall be committed to a plan that pays unsecured
creditors.

Sec. 103. Definition of inappropriate use.

Subtitle B—Adequate Protections for Consumers

Sec. 111. Notice of alternatives.

Sec. 112. Debtor financial management training test program.

Sec. 113. Definitions.

Sec. 114. Disclosures.

Sec. 115. Debtor’s bill of rights.

Sec. 116. Enforcement.

Sec. 117. Sense of the Congress.

Sec. 118. Charitable contributions.

Sec. 119. Reinforce the fresh start.

Subtitle C—Adequate Protections for Secured Creditors

- Sec. 121. Discouraging bad faith repeat filings.
- Sec. 122. Definitions of household goods and antiques.
- Sec. 123. Debtor retention of personal property security.
- Sec. 124. Relief from stay when the debtor does not complete intended surrender of consumer debt collateral.
- Sec. 125. Giving secured creditors fair treatment in chapter 13.
- Sec. 126. Prompt relief from stay in individual cases.
- Sec. 127. Stopping abusive conversions from chapter 13.
- Sec. 128. Restraining abusive purchases on secured credit.
- Sec. 129. Fair valuation of collateral.
- Sec. 130. Protection of holders of claims secured by debtor's principal residence.

Subtitle D—Adequate Protections for Unsecured Creditors

- Sec. 141. Debts incurred to pay nondischargeable debts.
- Sec. 142. Credit extensions on the eve of bankruptcy presumed nondischargeable.
- Sec. 143. Fraudulent debts are nondischargeable in chapter 13 cases.
- Sec. 144. Applying the codebtor stay only when it protects the debtor.
- Sec. 145. Credit extensions without a reasonable expectation of repayment made nondischargeable.
- Sec. 146. Debts for alimony, maintenance, and support.
- Sec. 147. Nondischargeability of certain debts for alimony, maintenance, and support.
- Sec. 148. Other exceptions to discharge.
- Sec. 149. Fees arising from certain ownership interests.

Subtitle E—Adequate Protections for Lessors

- Sec. 161. Giving debtors the ability to keep leased personal property by assumption.
- Sec. 162. Adequate protection of lessors and purchase money secured creditors.
- Sec. 163. Adequate protection for lessors.

Subtitle F—Bankruptcy Relief Less Frequently Available for Repeat Filers

- Sec. 171. Extend period between bankruptcy discharges.

Subtitle G—Exemptions

- Sec. 181. Exemptions.

TITLE II—BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Provisions

- Sec. 201. Limitation relating to the use of fee examiners.
- Sec. 202. Sharing of compensation.
- Sec. 203. Chapter 12 made permanent law.
- Sec. 204. Meetings of creditors and equity security holders.
- Sec. 205. Creditors' and equity security holders' committees.
- Sec. 206. Postpetition disclosure and solicitation.
- Sec. 207. Preferences.
- Sec. 208. Venue of certain proceedings.
- Sec. 209. Period for filing plan under chapter 11.
- Sec. 210. Period for filing plan under chapter 12.

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- Sec. 211. Cases ancillary to foreign proceedings involving foreign insurance companies that are engaged in the business of insurance or re-insurance in the United States.
- Sec. 212. Rejection of executory contracts affecting intellectual property rights to recordings of artistic performance.
- Sec. 213. Unexpired leases of nonresidential real property.

Subtitle B—Specific Provisions

CHAPTER 1—SMALL BUSINESS BANKRUPTCY

- Sec. 231. Definitions.
- Sec. 232. Flexible rules for disclosure statement and plan.
- Sec. 233. Standard form disclosure statements and plans.
- Sec. 234. Uniform national reporting requirements.
- Sec. 235. Uniform reporting rules and forms.
- Sec. 236. Duties in small business cases.
- Sec. 237. Plan filing and confirmation deadlines.
- Sec. 238. Plan confirmation deadline.
- Sec. 239. Prohibition against extension of time.
- Sec. 240. Duties of the United States trustee and bankruptcy administrator.
- Sec. 241. Scheduling conferences.
- Sec. 242. Serial filer provisions.
- Sec. 243. Expanded grounds for dismissal or conversion and appointment of trustee.

CHAPTER 2—SINGLE ASSET REAL ESTATE

- Sec. 251. Single asset real estate defined.
- Sec. 252. Payment of interest.
- Sec. 253. Limitations on avoiding powers.

TITLE III—MUNICIPAL BANKRUPTCY PROVISIONS

- Sec. 301. Petition and proceedings related to petition.

TITLE IV—BANKRUPTCY ADMINISTRATION

Subtitle A—General Provisions

- Sec. 401. Adequate preparation time for creditors before the first meeting of creditors in individual cases.
- Sec. 402. Creditor representation at first meeting of creditors.
- Sec. 403. Filing proofs of claim.
- Sec. 404. Audit procedures.
- Sec. 405. Giving creditors fair notice in chapter 7 and 13 cases.
- Sec. 406. Debtor to provide tax returns and other information.
- Sec. 407. Dismissal for failure to file schedules timely or provide required information.
- Sec. 408. Adequate time to prepare for hearing on confirmation of the plan.
- Sec. 409. Chapter 13 plans to have a 5-year duration in certain cases.
- Sec. 410. Sense of the Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.
- Sec. 411. Jurisdiction of courts of appeals.
- Sec. 412. Establishment of official forms.

Subtitle B—Data Provisions

- Sec. 441. Improved bankruptcy statistics.
- Sec. 442. Bankruptcy data.
- Sec. 443. Sense of the Congress regarding availability of bankruptcy data.

TITLE V—TAX PROVISIONS

- Sec. 501. Treatment of certain liens.
- Sec. 502. Effective notice to government.
- Sec. 503. Notice of request for a determination of taxes.
- Sec. 504. Rate of interest on tax claims.
- Sec. 505. Tolling of priority of tax claim time periods.
- Sec. 506. Assessment defined.
- Sec. 507. Chapter 13 discharge of fraudulent and other taxes.
- Sec. 508. Chapter 11 discharge of fraudulent taxes.
- Sec. 509. The stay of proceedings in tax court.
- Sec. 510. Periodic payment of taxes in chapter 11 cases.
- Sec. 511. The avoidance of statutory tax liens prohibited.
- Sec. 512. Payment of taxes in the conduct of business.
- Sec. 513. Tardily filed priority tax claims.
- Sec. 514. Income tax returns prepared by tax authorities.
- Sec. 515. The discharge of the estate's liability for unpaid taxes.
- Sec. 516. Requirement to file tax returns to confirm chapter 13 plans.
- Sec. 517. Standards for tax disclosure.
- Sec. 518. Setoff of tax refunds.

TITLE VI—ANCILLARY AND OTHER CROSS-BORDER CASES

- Sec. 601. Amendment to add a chapter 6 to title 11, United States Code.
- Sec. 602. Amendments to other chapters in title 11, United States Code.

TITLE VII—MISCELLANEOUS

- Sec. 701. Exceptions to discharge.
- Sec. 702. Technical amendments.
- Sec. 703. Effective date; application of amendments.

1 **TITLE I—CONSUMER**
2 **BANKRUPTCY PROVISIONS**
3 **Subtitle A—Needs-Based**
4 **Bankruptcy**

5 **SEC. 101. NEEDS-BASED BANKRUPTCY.**

6 Title 11, United States Code, is amended—

7 (1) in section 101 as follows:

8 (A) by inserting after paragraph (10) the
9 following:

1 “(10A) ‘current monthly total income’ means
2 the average monthly income from all sources derived
3 which the debtor, or in a joint case, the debtor and
4 the debtor’s spouse, receive without regard to wheth-
5 er it is taxable income, in the six months preceding
6 the date of determination, and includes any amount
7 paid by anyone other than the debtor or, in a joint
8 case, the debtor and the debtor’s spouse on a regular
9 basis to the household expenses of the debtor or the
10 debtor’s dependents and, in a joint case, the debtor’s
11 spouse if not otherwise a dependent;”;

12 (B) by inserting after paragraph (40) the
13 following:

14 “(40A) ‘national median family income’ and
15 ‘national median household income for 1 earner’
16 shall mean during any calendar year, the national
17 median family income and the national median
18 household income for 1 earner which the Bureau of
19 the Census has reported as of January 1 of such cal-
20 endar year for the most recent previous calendar
21 year.”;

22 (2) in section 104(b)(1) by striking “109(e)”
23 and inserting “subsections (b), (e), and (h) of sec-
24 tion 109”;

25 (3) in section 109(b)—

1 (A) in paragraph (2) by striking “or” at
2 the end;

3 (B) in paragraph (3) by striking the period
4 and inserting “; or”; and

5 (C) by adding at the end the following:

6 “(4) an individual or, in a joint case, an indi-
7 vidual and such individual’s spouse, who have in-
8 come available to pay creditors as determined under
9 subsection (h).”;

10 (4) by adding at the end of section 109 the fol-
11 lowing:

12 “(h)(1) An individual or, in a joint case, an individual
13 and such individual’s spouse, have income available to pay
14 creditors if the individual, or, in a joint case, the individual
15 and the individual’s spouse combined, as of the date of
16 the order for relief, have—

17 “(A) current monthly total income of 75 per-
18 cent of the highest national median family income
19 reported for a family of equal or lesser size or, in
20 the case of a household of 1 person, 75 percent of
21 the national median household income for 1 earner,
22 or more as of the date of the order for relief;

23 “(B) projected monthly net income greater than
24 \$50; and

1 “(C) projected monthly net income sufficient to
2 repay twenty percent or more of unsecured nonprior-
3 ity claims during a five-year repayment plan.

4 “(2) Projected monthly net income shall be sufficient
5 under paragraph (1)(C) if, when multiplied by 60 months,
6 it equals or exceeds 20 percent of the total amount sched-
7 uled as payable to unsecured nonpriority creditors.

8 “(3) ‘Projected monthly net income’ means current
9 monthly total income less—

10 “(A) the expense allowances under the applica-
11 ble National Standards, Local Standards and Other
12 Necessary Expenses allowance (excluding payments
13 for debts) for the debtor, the debtor’s dependents,
14 and, in a joint case, the debtor’s spouse if not other-
15 wise a dependent, in the area in which the debtor re-
16 sides as determined under the Internal Revenue
17 Service financial analysis for expenses in effect as of
18 the date of the order for relief;

19 “(B) the average monthly payment on account
20 of secured creditors, which shall be calculated as the
21 total of all amounts scheduled as contractually pay-
22 able to secured creditors in each month of the 60
23 months following the date of the petition by the
24 debtor, or, in a joint case, by the debtor and the

1 debtor's spouse combined, and dividing that total by
2 60 months; and

3 “(C) the average monthly payment on account
4 of priority creditors, which shall be calculated as the
5 total amount of debts entitled to priority, reasonably
6 estimated by the debtor as of the date of the peti-
7 tion, and dividing that total by 60 months.

8 “(4) In the event that the debtor establishes extraor-
9 dinary circumstances that require allowance for additional
10 expenses or adjustment of current monthly income, pro-
11 jected monthly net income for purposes of this section
12 shall be the amount calculated under paragraph (3) less
13 such additional expenses or income adjustment as such ex-
14 traordinary circumstances require.

15 “(A) This paragraph shall not apply unless the
16 debtor files with the petition—

17 “(i) a written statement that this para-
18 graph applies in determining the debtor's eligi-
19 bility for relief under chapter 7 of this title;

20 “(ii) if adjustment of current monthly in-
21 come is claimed, an explanation of what income
22 has been lost in the 6 months preceding the
23 date of determination and any replacement in-
24 come that has been offered or secured, or is ex-

1 pected, and an itemization of such lost and re-
2 placement income;

3 “(iii) if allowance for additional expenses is
4 claimed, a list itemizing each additional expense
5 which exceeds the expenses allowances provided
6 under paragraph (3)(A);

7 “(iv) a detailed description of the extraor-
8 dinary circumstances that explain why each loss
9 of income described under clause (ii) will not be
10 replaced or each additional expense itemized
11 under clause (iii) requires allowance; and

12 “(v) a sworn statement signed by the debt-
13 or and, if the debtor is represented by counsel,
14 by the debtor’s attorney, that the information
15 required under this paragraph is true and cor-
16 rect.

17 “(B) Until the trustee or any party in interest
18 objects to the debtor’s statement that this paragraph
19 applies and the court rejects or modifies the debtor’s
20 statement, the projected monthly net income in the
21 debtor’s statement shall be the projected monthly
22 net income for the purposes of this section. If an ob-
23 jection is filed with the court within 60 days after
24 the debtor has provided all the information required
25 under subsections (a)(1) and (c)(1)(A) of section

1 521, the court, after notice and hearing, shall deter-
2 mine whether such extraordinary circumstances exist
3 and shall establish the amount of the additional ex-
4 pense allowance, if any. The burden of proving such
5 extraordinary circumstances shall be on the debtor.”;

6 (5) in section 704—

7 (A) by striking “and” at the end of para-
8 graph (8);

9 (B) by striking the period at the end of
10 paragraph (9) and inserting “; and”; and

11 (C) by adding at the end the following:

12 “(10) with respect to an individual debtor, re-
13 view all materials provided by the debtor under sub-
14 sections (a)(1) and (c)(1) of section 521, investigate
15 and verify the debtor’s projected monthly net income
16 and within 30 days after such materials are so pro-
17 vided—

18 “(A) file a report with the court as to
19 whether the debtor qualifies for relief under this
20 chapter under section 109(b)(4); and

21 “(B) if the trustee determines that the
22 debtor does not qualify for such relief, the
23 trustee shall provide a copy of such report to
24 the parties in interest.”;

25 (6) in section 1302(b)—

1 (A) in paragraph (4) by striking “and” at
2 the end;

3 (B) in paragraph (5) by striking the period
4 and inserting a semicolon; and

5 (C) by adding at the end the following:

6 “(6) investigate and verify the debtor’s monthly
7 net income and other information provided by the
8 debtor pursuant to sections 521 and 1322, and pur-
9 suant to section 111, if applicable; and

10 “(7) file annual reports with the court, with
11 copies to holders of claims under the plan, as to
12 whether a modification of the amount paid creditors
13 under the plan is appropriate because of changes in
14 the debtor’s monthly net income.”.

15 **SEC. 102. ADEQUATE INCOME SHALL BE COMMITTED TO A**
16 **PLAN THAT PAYS UNSECURED CREDITORS.**

17 Title 11, United States Code, is amended—

18 (1) in section 101 by inserting after paragraph
19 (39) the following:

20 “(39A) ‘monthly net income’ means the amount
21 determined by taking the current monthly total in-
22 come of the debtor less—

23 “(A) the expense allowances under the ap-
24 plicable National Standards, Local Standards
25 and Other Necessary Expenses allowance (ex-

1 including payments for debts) for the debtor, the
2 debtor's dependents, and, in a joint case, the
3 debtor's spouse if not otherwise a dependent, in
4 the area in which the debtor resides as deter-
5 mined under the Internal Revenue Service fi-
6 nancial analysis for expenses in effect as of the
7 date it is being determined;

8 “(B) the average monthly payment on ac-
9 count of secured creditors, which shall be cal-
10 culated as of the date of determination as the
11 total of all amounts then remaining to be paid
12 on account of secured claims pursuant to the
13 plan less any of such amounts to be paid from
14 sources other than the debtor's income, divided
15 by the total months remaining of the plan; and

16 “(C) the average monthly payment on ac-
17 count of priority creditors, which shall be cal-
18 culated as the total of all amounts then remain-
19 ing to be paid on account of priority claims pur-
20 suant to the plan less any of such amounts to
21 be paid from sources other than the debtor's in-
22 come, divided by the total months remaining of
23 the plan.”;

1 (2) in section 104(b)(1) by striking “and
2 523(a)(2)(C)” and inserting “523(a)(2)(C), and
3 1325(b)(1)”;

4 (3) by adding after section 110 the following:

5 **“§ 111. Adjustment to monthly net income**

6 “(a) Monthly net income for purposes of a plan under
7 chapter 13 of this title shall be adjusted under this section
8 when the debtor’s extraordinary circumstances require ad-
9 justment as determined herein. Under this section, month-
10 ly net income shall be determined by subtracting there-
11 from such loss of income or additional expenses as the
12 debtor’s extraordinary circumstances require as deter-
13 mined under this section. This section shall not apply un-
14 less—

15 “(1) the debtor files with the court and, in a
16 case in which a trustee has been appointed, with the
17 trustee at the times required in subsection (b) a
18 statement of extraordinary circumstances as fol-
19 lows—

20 “(A) a written statement that this section
21 applies in determining the debtor’s monthly net
22 income;

23 “(B) if applicable, an explanation of what
24 income has been lost in the six months preced-
25 ing the date of determination and any replace-

1 ment income which has been secured or is ex-
2 pected, and an itemization of such lost and re-
3 placement income;

4 “(C) if applicable, a list itemizing each ad-
5 ditional expense which exceeds the expense al-
6 lowance provided in determining monthly net
7 income under section 101(39A);

8 “(D) if applicable, a detailed description of
9 the extraordinary circumstances which explains
10 why each of the additional expenses itemized
11 under paragraph (C) requires allowance; and

12 “(E) a sworn statement signed by the
13 debtor and, if the debtor is represented by
14 counsel, by the debtor’s attorney, of the amount
15 of monthly net income that the debtor has pur-
16 suant to this subsection and that the informa-
17 tion provided under this subsection is true and
18 correct; and

19 “(2) until the trustee or any party in interest
20 objects to the debtor’s request that this section be
21 applied and the court rejects or modifies the debtor’s
22 statement, the monthly net income in the debtor’s
23 statement shall be the monthly net income for the
24 purposes of the debtor’s plan. If an objection is filed
25 with the court within the times provided in sub-

1 section (b), the court, after notice and hearing, shall
2 determine whether such extraordinary circumstances
3 asserted by the debtor exist and establish the
4 amount of the loss of income and such additional ex-
5 pense allowance, if any. The burden of proving such
6 extraordinary circumstances and the amount of the
7 loss of income and the additional expense allowance,
8 if any, shall be on the debtor. The court may award
9 to the party that prevails with respect to such objec-
10 tion a reasonable attorney's fee and costs incurred
11 by the prevailing party in connection with such ob-
12 jection if the court finds that the position of the
13 nonprevailing party was not substantially justified,
14 but the court shall not award such fee or such costs
15 if special circumstances make the award unjust.

16 “(b) For the purposes of chapter 13 of this title, the
17 statement of extraordinary circumstances shall be filed
18 with the court and served on the trustee on or before 45
19 days before each anniversary of the confirmation of the
20 plan in order to be applicable during the next year of the
21 plan. Any objection thereto shall be filed 30 days after
22 the statement is filed with the trustee. Whenever a state-
23 ment is timely filed with the trustee, the trustee shall give
24 notice to creditors that such statement has been filed and

1 the amount of monthly net income stated therein within
2 15 days of receipt of the statement.”;

3 (4) in section 1322(a)—

4 (A) by striking “and” at the end of para-
5 graph (2);

6 (B) by striking the period at the end of
7 paragraph (3) and inserting a semicolon; and

8 (C) by adding at the end the following:

9 “(4) state, under penalties of perjury, the
10 amount of monthly net income, which may be as ad-
11 justed under section 111, if applicable, of this title
12 and the amount of monthly net income which will be
13 paid per month to unsecured nonpriority creditors
14 under the plan.”; and

15 (5) by amending section 1325(b)(1)(B) to read
16 as follows:

17 “(B) the plan provides—

18 “(i) that payments to unsecured nonprior-
19 ity creditors who are not insiders shall equal or
20 exceed \$50 in each month of the plan;

21 “(ii) that during the applicable commit-
22 ment period beginning on the date that the first
23 payment is due under the plan, the total
24 amount of monthly net income received by the
25 debtor shall be paid to unsecured nonpriority

1 creditors under the plan less only payments
2 pursuant to section 1326(b); the ‘applicable
3 commitment period’ shall be not less than 5
4 years if the debtor’s total current monthly in-
5 come is 75 percent of the highest national me-
6 dian family income reported for a family of
7 equal or lesser size or, in the case of a house-
8 hold of 1 person, 75 percent of the national me-
9 dian household income for 1 earner, or more as
10 of the date of confirmation of the plan and shall
11 be not less than 3 years if the debtor’s total
12 current monthly income is less than 75 percent
13 of the highest national median family income
14 reported for a family of equal or lesser size or,
15 in the case of a household of 1 person, and less
16 than 75 percent of the national median house-
17 hold income for 1 earner, as of the date of con-
18 firmation of the plan; and

19 “(iii) that the amount payable to each
20 class of unsecured nonpriority claims under the
21 plan shall be increased or decreased during the
22 plan proportionately to the extent the debtor’s
23 monthly net income during the plan increases
24 or decreases as reasonably determined by the
25 trustee, subject to section 111 of this title, no

1 less frequently than as of each anniversary of
2 the confirmation of the plan based on monthly
3 net income as of 45 days before such anniver-
4 sary.”; and
5 (6) by striking section 1325(b)(2).

6 **SEC. 103. DEFINITION OF INAPPROPRIATE USE.**

7 Section 707(b) of title 11, United States Code, is
8 amended to read as follows:

9 “(b)(1) After notice and a hearing, the court—

10 “(A) on its own motion or on the motion of the
11 United States trustee or any party in interest, shall
12 dismiss a case filed by an individual debtor under
13 this chapter; or

14 “(B) with the debtor’s consent, convert the case
15 to a case under chapter 13 of this title;

16 if the court finds that the granting of relief would be an
17 inappropriate use of the provisions of this chapter.

18 “(2) The court shall determine that inappropriate use
19 of the provisions of this chapter exists if—

20 “(A) the debtor is excluded from this chapter
21 pursuant to section 109 of this title; or

22 “(B) the totality of the circumstances of the
23 debtor’s financial situation demonstrates such inap-
24 propriate use.

1 “(3) In the case of a motion filed by a party in inter-
2 est other than the trustee or United States trustee under
3 paragraph (1) that is denied by the court, the court shall
4 award against the moving party a reasonable attorney’s
5 fee and costs that the debtor incurred in opposing the mo-
6 tion if the court finds that the position of the moving party
7 was not substantially justified, but the court shall not
8 award such fee and costs if special circumstances would
9 make the award unjust.

10 “(4)(A) If a trustee appointed under this title or the
11 United States Trustee files a motion under this subsection
12 and the case is subsequently dismissed or converted to an-
13 other chapter, the court shall award to such party in inter-
14 est a reasonable attorney’s fee and costs incurred in con-
15 nection with such motion, payable by the debtor, unless
16 the court finds that awarding such fee and costs would
17 impose an unreasonable hardship on the debtor, consider-
18 ing the debtor’s conduct.

19 “(B) The signature of the debtor’s attorney on any
20 petition, pleading, motion, or other paper filed with the
21 court in the case of the debtor shall constitute a certificate
22 that the attorney has—

23 “(i) performed a reasonable investigation into
24 the circumstances that gave rise to the petition and

1 its schedules and statement of financial affairs or
2 the pleading, as applicable; and

3 “(ii) determined that the petition and its sched-
4 ules and statement of financial affairs or the plead-
5 ing, as applicable, including the choice of this chap-
6 ter—

7 “(I) is well grounded in fact; and

8 “(II) is warranted by existing law or a
9 good faith argument for the extension, modi-
10 fication, or reversal of existing law and does not
11 constitute an inappropriate use of the provi-
12 sions of this chapter.

13 “(C) If the court finds that the attorney for the debt-
14 or signed a paper in violation of subparagraph (B), at a
15 minimum, the court shall order—

16 “(i) the assessment of an appropriate civil pen-
17 alty against the attorney for the debtor; and

18 “(ii) the payment of the civil penalty to the
19 trustee or the United States Trustee.”.

20 **Subtitle B—Adequate Protections** 21 **for Consumers**

22 **SEC. 111. NOTICE OF ALTERNATIVES.**

23 (a) Section 342(b) of title 11, United States Code,
24 is amended to read as follows:

1 “(b)(1) Before the commencement of a case under
2 this title by an individual whose debts are primarily
3 consumer debts, the individual shall be given or obtain (as
4 required to be certified under section 521(a)(1)(B)(viii))
5 a written notice that is prescribed by the United States
6 trustee for the district in which the petition is filed pursu-
7 ant to section 586 of title 28 and that contains the follow-
8 ing:

9 “(A) A brief description of chapters 7, 11, 12
10 and 13 of this title and the general purpose, bene-
11 fits, and costs of proceeding under each of such
12 chapters.

13 “(B) A brief description of services that may be
14 available to the individual from an independent non-
15 profit debt counselling service.

16 “(C) The name, address, and telephone number
17 of each nonprofit debt counselling service (if any)—

18 “(i) with an office located in the district in
19 which the petition is filed; or

20 “(ii) that offers toll-free telephone commu-
21 nication to debtors in such district.

22 “(2) Any such nonprofit debt counselling service that
23 registers with the clerk of the bankruptcy court on or be-
24 fore December 10 of the preceding year shall be included
25 in such list unless the chief bankruptcy judge of the dis-

1 triet, after notice to the debt counselling service and the
2 United States trustee and opportunity for a hearing, for
3 good cause, orders that such debt counselling service shall
4 not be so listed.

5 “(3) The clerk shall make such notice available to in-
6 dividuals whose debts are primarily consumer debts.”.

7 (b) Section 586(a) of title 28, United States Code,
8 is amended—

9 (1) in paragraph (5) by striking “and” at the
10 end;

11 (2) in paragraph (6) by striking the period at
12 the end and inserting “; and”; and

13 (3) by adding at the end the following:

14 “(7) on or before January 1 of each calendar
15 year, and also within 30 days of any change in the
16 nonprofit debt counselling services registered with
17 the bankruptcy court, prescribe and make available
18 on request the notice described in section 342(b)(1)
19 of title 11 for each district included in the region.”.

20 **SEC. 112. DEBTOR FINANCIAL MANAGEMENT TRAINING**
21 **TEST PROGRAM.**

22 (a) DEVELOPMENT OF FINANCIAL MANAGEMENT
23 AND TRAINING CURRICULUM AND MATERIALS.—The Di-
24 rector of the Executive Office for United States Trustees
25 (in this section referred to as the “Director”) shall consult

1 with a wide range of individuals who are experts in the
2 field of debtor education, including trustees who are ap-
3 pointed under chapter 13 of title 11 of the United States
4 Code and who operate financial management education
5 programs for debtors, and shall develop a financial man-
6 agement training curriculum and materials that can be
7 used to educate individual debtors on how to better man-
8 age their finances.

9 (b) TEST—(1) The Director shall select 3 judicial dis-
10 tricts of the United States in which to test the effective-
11 ness of the financial management training curriculum and
12 materials developed under subsection (a).

13 (2) For a 1-year period beginning not later than 60
14 days after the date of the enactment of this Act, such cur-
15 riculum and materials shall be made available by the Di-
16 rector, directly or indirectly, on request to individual debt-
17 ors in cases filed in such 1-year period under chapter 7
18 or 13 of title 11 of the United States Code.

19 (3) The bankruptcy courts in each of such districts
20 may require individual debtors in such cases to undergo
21 such financial management training as a condition to re-
22 ceiving a discharge in such case.

23 (c) EVALUATION.—(1) During the 1-year period re-
24 ferred to in subsection (b), the Director shall evaluate the
25 effectiveness of—

1 (A) the financial management training curricu-
2 lum and materials developed under subsection (a);
3 and

4 (B) a sample of existing consumer education
5 programs such as those described in the Report of
6 the National Bankruptcy Review Commission (Octo-
7 ber 20, 1997) that are representative of consumer
8 education programs carried out by the credit indus-
9 try, by trustees serving under chapter 13 of title 11
10 of the United States Code, and by consumer coun-
11 selling groups.

12 (2) Not later than 3 months after concluding such
13 evaluation, the Director shall submit a report to the
14 Speaker of the House of Representatives and the Presi-
15 dent pro tempore of the Senate, for referral to the appro-
16 priate committees of the Congress, containing the findings
17 of the Director regarding the effectiveness of such curricu-
18 lum, such materials, and such programs.

19 **SEC. 113. DEFINITIONS.**

20 (a) DEFINITIONS.—Section 101 of title 11, United
21 States Code, is amended—

22 (1) by inserting after paragraph (2) the follow-
23 ing:

1 “(3A) ‘assisted person’ means any person whose
2 debts consist primarily of consumer debts and whose
3 non-exempt assets are less than \$150,000;”;

4 (2) by inserting after paragraph (4) the follow-
5 ing:

6 “(4A) ‘bankruptcy assistance’ means any goods
7 or services sold or otherwise provided to an assisted
8 person with the express or implied purpose of pro-
9 viding information, advice, counsel, document prepa-
10 ration or filing, or attendance at a creditors’ meeting
11 or appearing in a proceeding on behalf of another or
12 providing legal representation with respect to a pro-
13 ceeding under this title;”;

14 (3) by inserting after paragraph (12A) the fol-
15 lowing:

16 “(12B) ‘debt relief counselling agency’ means
17 any person who provides any bankruptcy assistance
18 to an assisted person in return for the payment of
19 money or other valuable consideration, or who is a
20 bankruptcy petition preparer pursuant to section
21 110 of this title, but does not include any person
22 that is any of the following or an officer, director,
23 employee or agent thereof—

1 “(A) any nonprofit organization which is
2 exempt from taxation under section 501(c)(3)
3 of the Internal Revenue Code of 1986;

4 “(B) any creditor of the person to the ex-
5 tent the creditor is assisting the person to re-
6 structure any debt owed by the person to the
7 creditor; or

8 “(C) any depository institution (as defined
9 in section 3 of the Federal Deposit Insurance
10 Act) or any Federal credit union or State credit
11 union (as those terms are defined in section
12 101 of the Federal Credit Union Act), or any
13 affiliate or subsidiary of such a depository insti-
14 tution or credit union;”.

15 (b) CONFORMING AMENDMENT.—In section
16 104(b)(1) by inserting “101(3),” after “sections” the first
17 place it appears.

18 **SEC. 114. DISCLOSURES.**

19 (a) DISCLOSURES.—Subchapter II of chapter 5 of
20 title 11, United States Code, is amended by adding at the
21 end the following:

22 **“§ 526. Disclosures**

23 “(a) A debt relief counselling agency providing bank-
24 ruptcy assistance to an assisted person shall provide the
25 following notices to the assisted person:

1 “(1) the written notice required under section
2 342(b)(1) of this title; and

3 “(2) to the extent not covered in the written no-
4 tice described in paragraph (1) of this section and
5 no later than three business days after the first date
6 on which a debt relief counselling agency first offers
7 to provide any bankruptcy assistance services to an
8 assisted person, a clear and conspicuous written no-
9 tice advising assisted persons of the following:

10 “(A) all information the assisted person is
11 required to provide with a petition and there-
12 after during a case under this title must be
13 complete, accurate and truthful;

14 “(B) all assets and all liabilities must be
15 completely and accurately disclosed in the docu-
16 ments filed to commence the case, and the re-
17 placement value of each asset as defined in sec-
18 tion 506 of this title must be stated in those
19 documents where requested after reasonable in-
20 quiry to establish such value;

21 “(C) current monthly total income, pro-
22 jected monthly net income and, in a chapter 13
23 case, monthly net income must be stated after
24 reasonable inquiry;

1 “(D) that information an assisted person
2 provides during their case may be audited pur-
3 suant to this title and that failure to provide
4 such information may result in dismissal of the
5 proceeding under this title or other sanction in-
6 cluding, in some instances, criminal sanctions.

7 “(b) A debt relief counselling agency providing bank-
8 ruptcy assistance to an assisted person shall provide each
9 assisted person at the same time as the notices required
10 under subsection (a)(1) with the following statement, to
11 the extent applicable, or one substantially similar. The
12 statement shall be clear and conspicuous and shall be in
13 a single document separate from other documents or no-
14 tices provided to the assisted person:

15 “‘IMPORTANT INFORMATION ABOUT BANK-
16 RUPTCY ASSISTANCE SERVICES FROM AN AT-
17 TORNEY OR BANKRUPTCY PETITION PREPARER

18 “‘If you decide to seek bankruptcy relief, you can
19 represent yourself, you can hire an attorney to represent
20 you, or you can get help in some localities from a bank-
21 ruptcy petition preparer who is not an attorney. THE
22 LAW REQUIRES AN ATTORNEY OR BANKRUPTCY
23 PETITION PREPARER TO GIVE YOU A WRITTEN
24 CONTRACT SPECIFYING WHAT THE ATTORNEY
25 OR BANKRUPTCY PETITION PREPARER WILL DO

1 FOR YOU AND HOW MUCH IT WILL COST. Ask to
2 see the contract before you hire anyone.

3 “The following information helps you understand
4 what must be done in a routine bankruptcy case to help
5 you evaluate how much service you need. Although bank-
6 ruptcy can be complex, many cases are routine.

7 “Before filing a bankruptcy case, either you or your
8 attorney should analyze your eligibility for different forms
9 of debt relief made available by the Bankruptcy Code and
10 which form of relief is most likely to be beneficial for you.
11 Be sure you understand the relief you can obtain and its
12 limitations. To file a bankruptcy case, documents called
13 a Petition, Schedules and Statement of Financial Affairs,
14 as well as in some cases a Statement of Intention need
15 to be prepared correctly and filed with the bankruptcy
16 court. You will have to pay a filing fee to the bankruptcy
17 court. Once your case starts, you will have to attend the
18 required first meeting of creditors where you may be ques-
19 tioned by a court official called a “trustee” and by credi-
20 tors.

21 “If you select a chapter 7 proceeding, you may be
22 asked by a creditor to reaffirm a debt. You may want help
23 deciding whether to do so.

24 “If you select a chapter 13 proceeding in which you
25 repay your creditors what you can afford over three to

1 seven years, you may also want help with preparing your
2 chapter 13 plan and with the confirmation hearing on your
3 plan which will be before a bankruptcy judge.’

4 “‘If you select another type of proceeding under the
5 Bankruptcy Code other than chapter 7 or chapter 13, you
6 will want to find out what needs to be done from someone
7 familiar with that type of proceeding.

8 “‘Your bankruptcy proceeding may also involve liti-
9 gation. You are generally permitted to represent yourself
10 in litigation in bankruptcy court, but only attorneys, not
11 bankruptcy petition preparers, can represent you in litiga-
12 tion.’.

13 “(c) Except to the extent the debt relief counselling
14 agency provides the required information itself after rea-
15 sonably diligent inquiry of the assisted person or others
16 so as to obtain such information reasonably accurately for
17 inclusion on the petition, schedules or statement of finan-
18 cial affairs, a debt relief counselling agency providing
19 bankruptcy assistance to an assisted person shall provide
20 each assisted person at the time required for the notice
21 required under subsection (a)(1) reasonably sufficient in-
22 formation (which may be provided orally or in a clear and
23 conspicuous writing) to the assisted person on how to pro-
24 vide all the information the assisted person is required to

1 provide under this title pursuant to section 521, includ-
2 ing—

3 “(1) how to value assets at replacement value,
4 determine current monthly total income, projected
5 monthly income and, in a chapter 13 case, net
6 monthly income, and related calculations;

7 “(2) how to complete the list of creditors, in-
8 cluding how to determine what amount is owed and
9 what address for the creditor should be shown;

10 “(3) how to determine what property is exempt
11 and how to value exempt property at replacement
12 value as defined in section 506 of this title.

13 “(d) A debt relief counselling agency shall maintain
14 a copy of the notices required under subsection (a) of this
15 section for two years after the later of the date on which
16 the notice is given the assisted person.”.

17 (b) CONFORMING AMENDMENT.—The table of sec-
18 tion for chapter 5 of title 11, United States Code, is
19 amended by inserting after the item relating to section
20 525 the following:

“526. Disclosures.”.

21 **SEC. 115. DEBTOR’S BILL OF RIGHTS.**

22 (a) DEBTOR’S BILL OF RIGHTS.—Subchapter II of
23 chapter 5 of title 11, United States Code, as amended by
24 section 114, is amended by adding at the end the follow-
25 ing:

1 **“§ 527. Debtor’s bill of rights**

2 “(a) A debt relief counselling agency shall—

3 “(1) no later than three business days after the
4 first date on which a debt relief counselling agency
5 provides any bankruptcy assistance services to an
6 assisted person, execute a written contract with the
7 assisted person specifying clearly and conspicuously
8 the services the agency will provide the assisted per-
9 son and the basis on which fees or charges will be
10 made for such services and the terms of payment,
11 and give the assisted person a copy of the fully exe-
12 cuted and completed contract in a form the person
13 can keep.

14 “(2) disclose in any advertisement of bank-
15 ruptcy assistance services or of the benefits of bank-
16 ruptcy directed to the general public (whether in
17 general media, seminars or specific mailings, tele-
18 phonic or electronic messages or otherwise) that the
19 services or benefits are with respect to proceedings
20 under this title, clearly and conspicuously using the
21 following statement: “We are a debt relief counsel-
22 ling agency. We help people file Bankruptcy peti-
23 tions to obtain relief under the Bankruptcy Code.”
24 or a substantially similar statement. An advertise-
25 ment shall be of bankruptcy assistance services if it
26 describes or offers bankruptcy assistance with a

1 chapter 13 plan, regardless of whether chapter 13 is
2 specifically mentioned, including such statements as
3 “federally supervised repayment plan” or “Federal
4 debt restructuring help” or other similar statements
5 which would lead a reasonable consumer to believe
6 that help with debts was being offered when in fact
7 in most cases the help available is bankruptcy assist-
8 ance with a chapter 13 plan.

9 “(3) if an advertisement directed to the general
10 public indicates that the debt relief counselling agen-
11 cy provides assistance with respect to credit defaults,
12 mortgage foreclosures, lease eviction proceedings, ex-
13 cessive debt, debt collection pressure, or inability to
14 pay any consumer debt, disclose conspicuously in
15 that advertisement that the assistance is with re-
16 spect to or may involve proceedings under this title,
17 using the following statement: “We are a debt relief
18 counselling agency. We help people file Bankruptcy
19 petitions to obtain relief under the Bankruptcy
20 Code.” or a substantially similar statement.

21 “(b) A debt relief counselling agency shall not—

22 “(1) fail to perform any service which the debt
23 relief counseling agency has told the assisted person
24 or prospective assisted person the agency would pro-

1 vide that person in connection with the preparation
2 for or activities during a proceeding under this title.

3 “(2) make any statement, or counsel or advise
4 any assisted person to make any statement in any
5 document filed in a proceeding under this title,
6 which is untrue or misleading or which upon the ex-
7 ercise of reasonable care, should be known by the
8 debt relief counselling agency to be untrue or mis-
9 leading.

10 “(3) misrepresent to any assisted person or pro-
11 spective assisted person, directly or indirectly, af-
12 firmatively or by material omission, what services
13 the debt relief counselling agency can reasonably ex-
14 pect to provide that person, or the benefits an as-
15 sisted person may obtain or the difficulties the per-
16 son may experience if the person seeks relief in a
17 proceeding pursuant to this title.

18 “(4) advise an assisted person or prospective
19 assisted person to incur more debt in contemplation
20 of that person filing a proceeding under this title or
21 in order to pay an attorney or bankruptcy petition
22 preparer fee or charge for services performed as part
23 of preparing for or representing a debtor in a pro-
24 ceeding under this title.”.

1 (b) CONFORMING AMENDMENT.—The table of sec-
2 tion for chapter 5 of title 11, United States Code, as
3 amended by section 114, is amended by inserting after the
4 item relating to section 526, the following:

“527. Debtor’s bill of rights.”.

5 **SEC. 116. ENFORCEMENT.**

6 (a) ENFORCEMENT.—Subchapter II of chapter 5 of
7 title 11, United States Code, as amended by sections 114
8 and 115, is amended by adding at the end the following:

9 **“§ 528. Debt relief counselling agency enforcement**

10 “(a) ASSISTED PERSON WAIVERS INVALID.—Any
11 waiver by any assisted person of any protection or right
12 provided by or under section 526 or 527 of this title shall
13 be void and may not be enforced by any Federal or State
14 court or any other person.

15 “(b) NONCOMPLIANCE.—

16 “(1) Any contract between a debt relief counsel-
17 ling agency and an assisted person for bankruptcy
18 assistance which does not comply with the require-
19 ments of section 526 or 527 of this title shall be
20 treated as void and may not be enforced by any Fed-
21 eral or State court or by any other person.

22 “(2) Any debt relief counselling agency which
23 has been found, after notice and hearing, to have

24 “(A) failed to comply with any provision of
25 section 526 or 527 with respect to a bankruptcy

1 case or related proceeding of an assisted per-
2 son, or

3 “(B) provided bankruptcy assistance to an
4 assisted person in a case or related proceeding
5 which is dismissed or converted in lieu of dis-
6 missal under section 707 of this title or because
7 of a failure to file bankruptcy papers, including
8 papers specified in section 521 of this title; or

9 “(C) negligently or intentionally dis-
10 regarded the requirements of this title or the
11 Federal Rules of Bankruptcy Procedure appli-
12 cable to such debt relief counselling agency
13 shall be liable to the assisted person in the
14 amount of any fees and charges in connection
15 with providing bankruptcy assistance to such
16 person which the debt relief counselling agency
17 has already been paid on account of that pro-
18 ceeding and if the case has not been closed, the
19 court may in addition require the debt relief
20 counselling agency to continue to provide bank-
21 ruptcy assistance services in the pending case to
22 the assisted person without further fee or
23 charge or upon such other terms as the court
24 may order.

1 “(3) In addition to such other remedies as are
2 provided under State law, whenever the chief law en-
3 forcement officer of a State, or an official or agency
4 designated by a State, has reason to believe that any
5 person has violated or is violating section 526 or 527
6 of this title, the State—

7 “(A) may bring an action to enjoin such
8 violation;

9 “(B) may bring an action on behalf of its
10 residents to recover the actual damages of as-
11 sisted persons arising from such violation, in-
12 cluding any liability under paragraph (2); and

13 “(C) in the case of any successful action
14 under subparagraph (A) or (B), shall be award-
15 ed the costs of the action and reasonable attor-
16 ney fees as determined by the court.

17 “(4) The United States District Court for any
18 district located in the State shall have concurrent ju-
19 risdiction of any action under subparagraph (A) or
20 (B) of paragraph (3).

21 “(c) RELATION TO STATE LAW.—This section and
22 sections 526 and 527 shall not annul, alter, affect or ex-
23 empt any person subject to those sections from complying
24 with any law of any State except to the extent that such

1 law is inconsistent with those sections, and then only to
2 the extent of the inconsistency.”.

3 (b) CONFORMING AMENDMENT.—The table of sec-
4 tion for chapter 5 of title 11, United States Code, as
5 amended by sections 114 and 115, is amended by inserting
6 after the item relating to section 527, the following:

“528. Debt relief counselling agency enforcement.”.

7 **SEC. 117. SENSE OF THE CONGRESS.**

8 It is the sense of the Congress that States should de-
9 velop curricula relating to the subject of personal finance,
10 designed for use in elementary and secondary schools.

11 **SEC. 118. CHARITABLE CONTRIBUTIONS.**

12 (a) DEFINITIONS.—Section 548(d) of title 11, United
13 States Code, is amended by adding at the end the follow-
14 ing:

15 “(3) In this section, the term ‘charitable contribution’
16 means a charitable contribution as defined in section
17 170(c) of the Internal Revenue Code of 1986, if such con-
18 tribution—

19 “(A) is made by a natural person; and

20 “(B) consists of—

21 “(i) a financial instrument (as defined in
22 section 731(c)(2)(C) of the Internal Revenue
23 Code of 1986); or

24 “(ii) cash.

1 “(4) In this section, the term ‘qualified religious or
2 charitable entity or organization’ means—

3 “(A) an entity described in section 170(c)(1) of
4 the Internal Revenue Code of 1986; or

5 “(B) an entity or organization described in sec-
6 tion 170(c)(2) of the Internal Revenue Code of
7 1986.”.

8 (b) TREATMENT OF PREPETITION QUALIFIED CHAR-
9 ITABLE CONTRIBUTIONS.

10 (1) IN GENERAL.—Section 548(a) of title 11,
11 United States Code, is amended—

12 (A) by inserting “(1)” after “(a)”;

13 (B) by striking “(1) made” and inserting
14 “(A) made”;

15 (C) by striking “(2)(A)” and inserting
16 “(B)(i);

17 (D) by striking “(B)(i)” and inserting
18 “(ii)(I)”;

19 (E) by striking “(ii) was” and inserting
20 “(II) was”;

21 (F) by striking “(iii)” and inserting
22 “(III)”;

23 (G) by adding at the end the following:

24 “(2) A transfer of a charitable contribution to a
25 qualified religious or charitable entity or organization shall

1 not be considered to be a transfer covered under para-
2 graph (1)(B) in any case in which—

3 “(A) the amount of such contribution does not
4 exceed 15 percent of the gross annual income of the
5 debtor for the year in which the transfer of the con-
6 tribution is made; or

7 “(B) the contribution made by a debtor ex-
8 ceeded the percentage amount of gross annual in-
9 come specified in subparagraph (A), if the transfer
10 was consistent with the practices of the debtor in
11 making charitable contributions.”.

12 (2) TRUSTEE AS LIEN CREDITOR AND AS SUC-
13 CESSOR TO CERTAIN CREDITORS AND PUR-
14 CHASERS.—Section 544(b) of title 11, United States
15 Code, is amended—

16 (A) by striking “(b) The trustee” and in-
17 serting “(b)(1) Except as provided in paragraph
18 (2), the trustee”; and

19 (B) by adding at the end the following:

20 “(2) Paragraph (1) shall not apply to a transfer of
21 a charitable contribution (as defined in section 548(d)(3)
22 of this title) that is not covered under section
23 548(a)(1)(B) of this title by reason of section 548(a)(2)
24 of this title. Any claim by any person to recover a trans-
25 ferred contribution described in the preceding sentence

1 under Federal or State law in a Federal or State court
2 shall be preempted by the commencement of the case.”.

3 (3) CONFORMING AMENDMENTS.—Section 546
4 of title 11, United States Code, is amended—

5 (A) in subsection (e)—

6 (i) by striking “548(a)(2)” and insert-
7 ing “548(a)(1)(B)”; and

8 (ii) by striking “548(a)(1)” and in-
9 serting “548(a)(1)(A)”; and

10 (B) in subsection (f)—

11 (i) by striking “548(a)(2)” and insert-
12 ing “548(a)(1)(B)”; and

13 (ii) by striking “548(a)(1)” and in-
14 serting “548(a)(1)(A)”; and

15 (C) in subsection (g)—

16 (i) by striking “section 548(a)(1)”
17 each place it appears and inserting “sec-
18 tion 548(a)(1)(A)”; and

19 (ii) by striking “548(a)(2)” and in-
20 serting “548(a)(1)(B)”.

21 (c) TREATMENT OF POST-PETITION CHARITABLE
22 CONTRIBUTIONS UNDER CHAPTER 7.—Section 707 of title
23 11, United States Code, is amended by adding at the end
24 the following:

1 “(c) In making a determination whether to dismiss
2 a case under this section, the court may not take into con-
3 sideration whether a debtor has made, or continues to
4 make, charitable contributions (that meet the definition
5 of ‘charitable contribution’ under section 548(d)(3)) to
6 any qualified religious or charitable entity or organization
7 (as defined in section 548(d)(4)).”.

8 (d) RULE OF CONSTRUCTION.—Nothing in the
9 amendments made by this section is intended to limit the
10 applicability of the Religious Freedom Restoration Act of
11 1993 (42 U.S.C. 2002bb et seq.).

12 **SEC. 119. REINFORCE THE FRESH START.**

13 (a) RESTORATION OF AN EFFECTIVE DISCHARGE.—
14 Section 523(a)(17) of title 11, United States Code, is
15 amended—

16 (1) by striking “by a court” and inserting “on
17 a prisoner by any court”,

18 (2) by striking “section 1915(b) or (f)” and in-
19 serting “subsection (b) or (f)(2) of section 1915,”
20 and

21 (3) by inserting “(or a similar non-Federal
22 law)” after “title 28” each place it appears.

23 (b) PROTECTION OF RETIREMENT FUNDS IN BANK-
24 RUPTCY.—Section 522 of title 11, United States Code, is
25 amended—

1 (1) in subsection (b)(2)—

2 (A) in subparagraph (A) by striking “and”
3 at the end;

4 (B) in subparagraph (B) by striking the
5 period at the end and inserting “; and”; and

6 (C) by adding at the end the following:

7 “(C) retirement funds to the extent exempt
8 from taxation under section 401, 403, 408,
9 414, 457, or 501(a) of the Internal Revenue
10 Code of 1986.”; and

11 (2) in subsection (d) by adding at the end the
12 following:

13 “(12) Retirement funds to the extent exempt
14 from taxation under 401, 403, 408, 414, 457, or
15 501(a) of the Internal Revenue Code of 1986.”.

16 (c) EFFECTIVE PROTECTION FOR UTILITY SERVICE
17 IN THE WAKE OF DEREGULATION.—Section 366 of title
18 11, United States Code, is amended by adding at the end
19 the following:

20 “(c) For the purposes of this section, the term ‘util-
21 ity’ includes any provider of gas, electric, telephone, tele-
22 communication, cable television, satellite communication,
23 water, or sewer service, whether or not such service is a
24 regulated monopoly.”.

1 **Subtitle C—Adequate Protections**
2 **for Secured Creditors**

3 **SEC. 121. DISCOURAGING BAD FAITH REPEAT FILINGS.**

4 Section 362(c) of title 11, United States Code, is
5 amended—

6 (1) in paragraph (1) by striking “and” at the
7 end;

8 (2) in paragraph (2) by striking the period at
9 the end and inserting “; and”; and

10 (3) by adding at the end the following new
11 paragraphs:

12 “(3) If a single or joint case is filed by or
13 against an individual debtor under chapter 7, 11, or
14 13, and if a single or joint case of that debtor was
15 pending within the previous 1-year period but was
16 dismissed, other than a case refiled under a chapter
17 other than chapter 7 after dismissal under section
18 707(b) of this title, the stay under subsection (a)
19 with respect to any action taken with respect to a
20 debt or property securing such debt or with respect
21 to any lease will terminate with respect to the debtor
22 on the 30th day after the filing of the later case. If
23 a party in interest requests, the court may extend
24 the stay in particular cases as to any or all creditors
25 (subject to such conditions or limitations as the

1 court may then impose) after notice and a hearing
2 completed before the expiration of the 30-day period
3 only if the party in interest demonstrates that the
4 filing of the later case is in good faith as to the
5 creditors to be stayed. A case is presumptively filed
6 not in good faith (but such presumption may be re-
7 butted by clear and convincing evidence to the con-
8 trary)—

9 “(A) as to all creditors if—

10 “(i) more than 1 previous case under
11 any of chapters 7, 11, or 13 in which the
12 individual was a debtor was pending within
13 such 1-year period;

14 “(ii) a previous case under any of
15 chapters 7, 11, or 13 in which the individ-
16 ual was a debtor was dismissed within
17 such 1-year period, after the debtor failed
18 to file or amend the petition or other docu-
19 ments as required by this title or the court
20 without substantial excuse (but mere inad-
21 vertence or negligence shall not be sub-
22 stantial excuse unless the dismissal was
23 caused by the negligence of the debtor’s at-
24 torney), failed to provide adequate protec-
25 tion as ordered by the court, or failed to

1 perform the terms of a plan confirmed by
2 the court; or

3 “(iii) there has not been a substantial
4 change in the financial or personal affairs
5 of the debtor since the dismissal of the
6 next most previous case under any of chap-
7 ters 7, 11, or 13 of this title, or any other
8 reason to conclude that the later case will
9 be concluded, if a case under chapter 7 of
10 this title, with a discharge, and if a chap-
11 ter 11 or 13 case, a confirmed plan which
12 will be fully performed;

13 “(B) as to any creditor that commenced an
14 action under subsection (d) in a previous case
15 in which the individual was a debtor if, as of
16 the date of dismissal of that case, that action
17 was still pending or had been resolved by termi-
18 nating, conditioning, or limiting the stay as to
19 actions of that creditor.

20 “(4) If a single or joint case is filed by or
21 against an individual debtor under this title, and if
22 2 or more single or joint cases of that debtor were
23 pending within the previous year but were dismissed,
24 other than a case refiled under section 707(b) of this
25 title, the stay under subsection (a) will not go into

1 effect upon the filing of the later case. On request
2 of a party in interest, the court shall promptly enter
3 an order confirming that no stay is in effect. If a
4 party in interest requests within 30 days of the fil-
5 ing of the later case, the court may order the stay
6 to take effect in the case as to any or all creditors
7 (subject to such conditions or limitations as the
8 court may impose), after notice and hearing, only if
9 the party in interest demonstrates that the filing of
10 the later case is in good faith as to the creditors to
11 be stayed. A stay imposed pursuant to the preceding
12 sentence will be effective on the date of entry of the
13 order allowing the stay to go into effect. A case is
14 presumptively not filed in good faith (but such pre-
15 sumption may be rebutted by clear and convincing
16 evidence to the contrary)—

17 “(A) as to all creditors if—

18 “(i) 2 or more previous cases under
19 this title in which the individual was a
20 debtor were pending within the 1-year pe-
21 riod;

22 “(ii) a previous case under this title in
23 which the individual was a debtor was dis-
24 missed within the time period stated in
25 this paragraph after the debtor failed to

1 file or amend the petition or other docu-
2 ments as required by this title or the court
3 without substantial excuse (but mere inad-
4 vertence or negligence shall not be sub-
5 stantial excuse unless the dismissal was
6 caused by the negligence of the debtor's at-
7 torney), failed to pay adequate protection
8 as ordered by the court, or failed to per-
9 form the terms of a plan confirmed by the
10 court; or

11 “(iii) there has not been a substantial
12 change in the financial or personal affairs
13 of the debtor since the dismissal of the
14 next most previous case under this title, or
15 any other reason to conclude that the later
16 case will not be concluded, if a case under
17 chapter 7, with a discharge, and if a case
18 under chapter 11 or 13, with a confirmed
19 plan that will be fully performed; or

20 “(B) as to any creditor that commenced an
21 action under subsection (d) in a previous case
22 in which the individual was a debtor if, as of
23 the date of dismissal of that case, that action
24 was still pending or had been resolved by termi-

1 nating, conditioning, or limiting the stay as to
2 action of that creditor.”.

3 “(5)(A) If a request is made for relief from the
4 stay under subsection (a) with respect to real or per-
5 sonal property of any kind, and such request is
6 granted in whole or in part, the court may order in
7 addition that the relief so granted shall be in rem
8 either for a definite period not less than 1 year or
9 indefinitely. After the issuance of such an order, the
10 stay under subsection (a) shall not apply to any
11 property subject to such an in rem order in any case
12 of the debtor under this title. If such an order so
13 provides, such stay shall also not apply in any pend-
14 ing or later-filed case of any entity under this title
15 that claims or has an interest in the subject property
16 other than those entities identified in the court’s
17 order.

18 “(B) The court shall cause any order entered
19 pursuant to this paragraph with respect to real
20 property to be recorded in the applicable real prop-
21 erty records, which recording shall constitute notice
22 to all parties having or claiming an interest in such
23 real property for purpose of this section.

1 “(6) For the purposes of this section, a case is
2 pending from the time of the order for relief until
3 the case is closed.”.

4 **SEC. 122. DEFINITION OF HOUSEHOLD GOODS.**

5 Section 101 of title 11, United States Code, is
6 amended by inserting after paragraph (27) the following:

7 “(27A) ‘household goods’ has the meaning
8 given such term in the Trade Regulation Rule on
9 Credit Practices promulgated by the Federal Trade
10 Commission (16 C.F.R.444.1(i)), as in effect on the
11 effective date of this paragraph;”.

12 **SEC. 123. DEBTOR RETENTION OF PERSONAL PROPERTY**
13 **SECURITY.**

14 Title 11, United States Code, is amended—

15 (1) in section 521—

16 (A) in paragraph (4) by striking “and” at
17 the end;

18 (B) in paragraph (5) by striking the period
19 at the end and inserting “; and”; and

20 (C) by adding at the end the following:

21 “(6) in an individual case under chapter 7 of
22 this title, not retain possession of personal property
23 as to which a creditor has an allowed claim for the
24 purchase price secured in whole or in part by an in-
25 terest in that personal property unless, in the case

1 of an individual debtor, the debtor takes 1 of the fol-
2 lowing actions within 30 days after the first meeting
3 of creditors under section 341(a)—

4 “(A) enters into a reaffirmation agreement
5 with the creditor pursuant to section 524(c) of
6 this title with respect to the claim secured by
7 such property; or

8 “(B) redeems such property from the secu-
9 rity interest pursuant to section 722 of this
10 title.

11 “If the debtor fails to so act within the 30-day pe-
12 riod, the personal property affected shall no longer
13 be property of the estate, and the creditor may take
14 whatever action as to such property as is permitted
15 by applicable nonbankruptcy law, unless the court
16 determines on the motion of the trustee, and after
17 notice and a hearing, that such property is of con-
18 sequential value or benefit to the estate.”; and

19 (2) in section 722 by inserting “in full at the
20 time of redemption” before the period at the end.

21 **SEC. 124. RELIEF FROM STAY WHEN THE DEBTOR DOES**
22 **NOT COMPLETE INTENDED SURRENDER OF**
23 **CONSUMER DEBT COLLATERAL.**

24 Title 11, United States Code, is amended as fol-
25 lows—

1 (1) in section 362—

2 (A) by striking “(e), and (f)” in subsection
3 (c) and inserting in lieu thereof “(e), (f), and
4 (h)”; and

5 (B) by redesignating subsection (h) as sub-
6 section (i) and by inserting after subsection (g)
7 the following:

8 “(h) In an individual case pursuant to chapter 7, 11,
9 or 13 the stay provided by subsection (a) is terminated
10 with respect to property of the estate securing in whole
11 or in part a claim, or subject to an unexpired lease, if
12 the debtor fails within the applicable time set by section
13 521(a)(2) of this title—

14 “(1) to file timely any statement of intention
15 required under section 521(a)(2) of this title with
16 respect to that property or to indicate therein that
17 the debtor will either surrender the property or re-
18 tain it and, if retaining it, either redeem the prop-
19 erty pursuant to section 722 of this title, reaffirm
20 the debt it secures pursuant to section 524(c) of this
21 title, or assume the unexpired lease pursuant to sec-
22 tion 365(p) of this title if the trustee does not do
23 so, as applicable; or

24 “(2) to take timely the action specified in that
25 statement of intention, as it may be amended before

1 expiration of the period for taking action, unless the
2 statement of intention specifies reaffirmation and
3 the creditor refuses to reaffirm on the original con-
4 tract terms;

5 unless the court determines on the motion of the trustee,
6 and after notice and a hearing, that such property is of
7 consequential value or benefit to the estate.”;

8 (2) in section 521—

9 (A) in paragraph (2) by striking
10 “consumer”;

11 (B) in paragraph (2)(B)—

12 (i) by striking “forty-five days after
13 the filing of a notice of intent under this
14 section” and inserting “30 days after the
15 first date set for the meeting of creditors
16 under section 341(a)”;

17 (ii) by striking “forty-five-day” the
18 second place it appears and inserting “30-
19 day”;

20 (C) in paragraph (2)(C) by inserting “ex-
21 cept as provided in section 362(h)” before the
22 semicolon; and

23 (D) by adding at the end the following:

24 “(g) If the debtor fails timely to take the action speci-
25 fied in subsection (a)(6) of this section, or in paragraphs

1 (1) and (2) of section 362(h) of this title, with respect
2 to property which a lessor or bailor owns and has leased,
3 rented, or bailed to the debtor or as to which a creditor
4 holds a security interest not otherwise voidable under sec-
5 tion 522(f), 544, 545, 547, 548, or 549, nothing in this
6 title shall prevent or limit the operation of a provision in
7 the underlying lease or agreement which has the effect of
8 placing the debtor in default under such lease or agree-
9 ment by reason of the occurrence, pendency, or existence
10 of a proceeding under this title or the insolvency of the
11 debtor. Nothing in this subsection shall be deemed to jus-
12 tify limiting such a provision in any other circumstance.”.

13 **SEC. 125. GIVING SECURED CREDITORS FAIR TREATMENT**
14 **IN CHAPTER 13.**

15 Section 1325(a)(5)(B)(i) of title 11, United States
16 Code, is amended to read as follows:

17 “(i) the plan provides that the holder of
18 such claim retain the lien securing such claim
19 until the earlier of payment of the underlying
20 debt determined under nonbankruptcy law or
21 discharge under section 1328, and that if the
22 case under this chapter is dismissed or con-
23 verted without completion of the plan, such lien
24 shall also be retained by such holder to the ex-

1 tent recognized by applicable nonbankruptcy
2 law; and”.

3 **SEC. 126. PROMPT RELIEF FROM STAY IN INDIVIDUAL**
4 **CASES.**

5 Section 362(e) of title 11, United States Code, is
6 amended by inserting at the end the following:

7 “Notwithstanding the foregoing, in the case of an individ-
8 ual filing under chapter 7, 11, or 13, the stay under sub-
9 section (a) shall terminate 60 days after a request under
10 subsection (d) of this section, unless—

11 “(1) a final decision is rendered by the court
12 within such 60-day period; or

13 “(2) such 60-day period is extended either by
14 agreement of all parties in interest or by the court
15 for a specific time which the court finds is required
16 by compelling circumstances.”.

17 **SEC. 127. STOPPING ABUSIVE CONVERSIONS FROM CHAP-**
18 **TER 13.**

19 Section 348(f)(1) of title 11, United States Code, is
20 amended—

21 (1) by striking in subparagraph (B) “in the
22 converted case, with allowed secured claims” and in-
23 serting in lieu thereof “only in a case converted to
24 chapter 11 or 12 but not in one converted to chapter

1 7, with allowed secured claims in cases under chap-
2 ters 11 and 12”; and

3 (2) in subparagraph (A) by striking “and” at
4 the end;

5 (3) in subparagraph (B) by striking the period
6 and inserting “; and”; and

7 (4) by adding at the end the following:

8 “(C) with respect to cases converted from chap-
9 ter 13, the claim of any creditor holding security as
10 of the date of the petition shall continue to be se-
11 cured by that security unless the full amount of that
12 claim determined under applicable nonbankruptcy
13 law has been paid in full as of the date of conver-
14 sion, notwithstanding any valuation or determination
15 of the amount of an allowed secured claim made for
16 the purposes of the case under chapter of this title.
17 Unless a prebankruptcy default has been fully cured
18 pursuant to the plan at the time of conversion, in
19 any proceeding under this title or otherwise, the de-
20 fault shall have the effect given under applicable
21 nonbankruptcy law.”.

22 **SEC. 128. RESTRAINING ABUSIVE PURCHASES ON SECURED**
23 **CREDIT.**

24 Section 506 of title 11, United States Code, is
25 amended by adding at the end the following:

1 “(e) In an individual case under chapter 7, 11, 12,
2 or 13—

3 “(1) subsection (a) shall not apply to an al-
4 lowed claim to the extent attributable in whole or in
5 part to the purchase price of personal property ac-
6 quired by the debtor within 180 days of the filing of
7 the petition, except for the purpose of applying para-
8 graph (3) of this subsection;

9 “(2) if such allowed claim attributable to the
10 purchase price is secured only by the personal prop-
11 erty so acquired, the value of the personal property
12 and the amount of the allowed secured claim shall
13 be the sum of the unpaid principal balance of the
14 purchase price and accrued and unpaid interest and
15 charges at the contract rate;

16 “(3) if such allowed claim attributable to the
17 purchase price is secured by the personal property so
18 acquired and other property, the value of the secu-
19 rity may be determined under subsection (a), but the
20 value of the security and the amount of the allowed
21 secured claim shall be not less than the unpaid prin-
22 cipal balance of the purchase price of the personal
23 property acquired and unpaid interest and charges
24 at the contract rate; and

1 “(4) in any subsequent case under this title
2 that is filed by or against the debtor in the 2-year
3 period beginning on the date the petition is filed in
4 the original case, the value of the personal property
5 and the amount of the allowed secured claim shall
6 be deemed to be not less than the amount provided
7 under subparagraphs (2) and (3).”.

8 **SEC. 129. FAIR VALUATION OF COLLATERAL.**

9 Section 506(a) of title 11, United States Code, is
10 amended by adding at the end the following:

11 “In the case of an individual debtor under chapters 7 and
12 13, such value with respect to personal property securing
13 an allowed claim shall be determined based on the replace-
14 ment value of such property as of the date of filing the
15 petition without deduction for costs of sale or marketing.
16 With respect to property acquired for personal, family, or
17 household purpose, replacement value shall mean the price
18 a retail merchant would charge for property of that kind
19 considering the age and condition of the property at the
20 time value is determined.”.

21 **SEC. 130. PROTECTION OF HOLDERS OF CLAIMS SECURED**
22 **BY DEBTOR'S PRINCIPAL RESIDENCE.**

23 Title 11, United States Code, is amended—

24 (1) in section 101 by inserting after paragraph
25 (13) the following:

1 “(13A) ‘debtor’s principal residence’ means a
2 residential structure including incidental property
3 when the structure contains 1 to 4 units, whether or
4 not that structure is attached to real property, and
5 includes, without limitation, an individual condomin-
6 ium or cooperative unit or mobile or manufactured
7 home or trailer;

8 “(13B) ‘incidental property’ means property in-
9 cidental to such residence including, without limita-
10 tion, property commonly conveyed with a principal
11 residence where the real estate is located, window
12 treatments, carpets, appliances and equipment lo-
13 cated in the residence, and easements, appur-
14 tenances, fixtures, rents, royalties, mineral rights, oil
15 and gas rights, escrow funds and insurance pro-
16 ceeds.”;

17 (2) in section 362(b)—

18 (A) in paragraph (17) by striking “or” at
19 the end thereof;

20 (B) in paragraph (18) by striking the pe-
21 riod at the end; and

22 (C) by inserting after paragraph (18) the
23 following:

24 “(19) under subsection (a), until a prepetition
25 default is cured fully in a case under chapter 13 of

1 this title case by actual payment of all arrears as re-
2 quired by the plan, of the postponement, continu-
3 ation or other similar delay of a prepetition fore-
4 closure proceeding or sale in accordance with appli-
5 cable nonbankruptcy law, but nothing herein shall
6 imply that such postponement, continuation or other
7 similar delay is a violation of the stay under sub-
8 section (a).”; and

9 (3) by amending section 1322(b)(2) to read as
10 follows:

11 “(2) modify the rights of holders of secured
12 claims, other than a claim secured primarily by a se-
13 curity interest in property used as the debtor’s prin-
14 cipal residence at any time during 180 days prior to
15 the filing of the petition, or of holders of unsecured
16 claims, or leave unaffected the rights of holders of
17 any class of claims;”.

18 **Subtitle D—Adequate Protections**
19 **for Unsecured Creditors**

20 **SEC. 141. DEBTS INCURRED TO PAY NONDISCHARGEABLE**
21 **DEBTS.**

22 Title 11, United States Code, is amended—

23 (1) in section 507 by adding at the end the fol-
24 lowing:

1 “(e) For the purposes of subsection (a), a claim arising from a debt which is nondischargeable under section 523(a)(14) shall have the same priority as the claim for the underlying obligation which was paid by that nondischargeable debt.”;

2 (2) in section 523(a) by amending paragraph (14) to read as follows:

3 “(14) incurred to pay a debt that would be nondischargeable pursuant to any other provision of this subsection;”.

4 **SEC. 142. CREDIT EXTENSIONS ON THE EVE OF BANKRUPTCY PRESUMED NONDISCHARGEABLE.**

5 Section 523(a)(2)(C) of title 11, United States Code, is amended to read as follows:

6 “(C) for purposes of subparagraph (A) of this paragraph, consumer debts incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable.”.

7 **SEC. 143. FRAUDULENT DEBTS ARE NONDISCHARGEABLE IN CHAPTER 13 CASES.**

8 Section 1328(a)(2) of title 11, United States Code, is amended—

9 (1) by inserting “(2), (3)(B), (4),” after “paragraph”; and

1 (2) by inserting “(6),” after “(5),”.

2 **SEC. 144. APPLYING THE CODEBTOR STAY ONLY WHEN IT**
3 **PROTECTS THE DEBTOR.**

4 Section 1301(b) of title 11, United States Code, is
5 amended—

6 (1) by inserting “(1)” after “(b)”; and

7 (2) by adding at the end the following:

8 “(2) When the debtor did not receive the consider-
9 ation for the claim held by a creditor, the stay provided
10 by subsection (a) does not apply to such creditor, notwith-
11 standing subsection (c), to the extent the creditor proceeds
12 against the individual which received such consideration
13 or against property not in the possession of the debtor
14 which secures such claim.

15 “(3) When the debtor’s plan provides that the debt-
16 or’s interest in personal property subject to a lease as to
17 which the debtor is the lessee will be surrendered or aban-
18 doned or no payments will be made under the plan on ac-
19 count of the debtor’s obligations under the lease, the stay
20 provided by subsection (a) shall terminate as of the date
21 of confirmation of the plan notwithstanding subsection
22 (c).”.

1 **SEC. 145. CREDIT EXTENSIONS WITHOUT A REASONABLE**
2 **EXPECTATION OF REPAYMENT MADE NON-**
3 **DISCHARGEABLE.**

4 Section 523(a)(2) of title 11, United States Code, is
5 amended—

6 (1) in subparagraph (A) by striking “or actual
7 fraud,” and inserting “actual fraud, or use of a
8 credit card or other device to access a credit line
9 without a reasonable expectation or ability to
10 repay,” and

11 (2) in subparagraph (B)(iv) by striking “with
12 intent to deceive” and inserting “without taking rea-
13 sonable steps to ensure the accuracy of the state-
14 ment”.

15 **SEC. 146. DEBTS FOR ALIMONY, MAINTENANCE, AND SUP-**
16 **PORT.**

17 (a) NONDISCHARGEABILITY.—Title 11, United
18 States Code, is amended—

19 (1) in section 523(a)(18) by inserting “(includ-
20 ing interest on such debt accrued under State law)”
21 after “law”; and

22 (2) in section 1328(a)(2) by striking “or (9)”
23 and inserting “(9), or (18)”.

24 (b) AUTOMATIC STAY.—Section 362(b) of title 11,
25 United States Code, as amended by section 130, is amend-
26 ed—

1 (1) in paragraph (19) by striking “or” at the
2 end;

3 (2) in paragraph (19) by striking the period at
4 the end and inserting a semicolon; and

5 (3) by adding at the end the following:

6 “(20) under subsection (a) with respect to the
7 withholding of income pursuant to an order as speci-
8 fied in section 466(b) of the Social Security Act; or

9 “(21) under subsection (a) with respect to the
10 withholding, suspension, or restriction of drivers’ li-
11 censes, professional and occupational licenses, and
12 recreational licenses pursuant to State law as speci-
13 fied in section 466(a)(15) of the Social Security Act
14 or with respect to the reporting of overdue support
15 owed by an absent parent to any consumer reporting
16 agency as specified in section 466(a)(7) of the Social
17 Security Act.”.

18 (c) CONTINUED LIABILITY OF PROPERTY.—Section
19 522(b) of title 11, United States Code, is amended by
20 striking “section 523(a)(1) or 523(a)(5)” and inserting
21 “paragraph (1), (5), or (18) of section 523(a)”.

22 (d) PRIORITY OF CLAIMS.—Section 507(a)(7) of title
23 11, United States Code, is amended by inserting “for
24 debts that are nondischargeable under section 523(a)(18)
25 or for” after “claims”.

1 (e) CONFIRMATION OF PLANS.—Title 11 of the Unit-
2 ed States Code is amended—

3 (1) in section 1129(a) by adding at the end the
4 following:

5 “(14) If the debtor is required by a judicial or
6 administrative order to pay alimony to, maintenance
7 for, or support of a spouse, former spouse, or child
8 of the debtor, the debtor has paid all amounts pay-
9 able under such order for alimony, maintenance, or
10 support that are due after the date the petition is
11 filed.”;

12 (2) in section 1225(a)—

13 (A) in paragraph (5) by striking “and” at
14 the end;

15 (B) in paragraph (6) by striking the period
16 at the end and inserting “; and”; and

17 (C) by adding at the end the following:

18 “(7) if the debtor is required by a judicial or
19 administrative order to pay alimony to, maintenance
20 for, or support of a spouse, former spouse, or child
21 of the debtor, the debtor has paid all amounts pay-
22 able under such order for alimony, maintenance, or
23 support that are due after the date the petition is
24 filed.”; and

25 (3) in section 1325(a)—

1 (A) in paragraph (5) by striking “and” at
2 the end;

3 (B) in paragraph (6) by striking the period
4 at the end and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(7) if the debtor is required by a judicial or
7 administrative order to pay alimony to, maintenance
8 for, or support of a spouse, former spouse, or child
9 of the debtor, the debtor has paid all amounts pay-
10 able under such order for alimony, maintenance, or
11 support that are due after the date the petition is
12 filed.”.

13 (f) DISCHARGE.—Title 11 United States Code is
14 amended—

15 (1) in section 1228(a) by inserting “, and only
16 after a debtor who is required by a judicial or ad-
17 ministrative order to pay alimony to, maintenance
18 for, or support of a spouse, former spouse, or child
19 of the debtor, certifies that all amounts payable
20 under such order for alimony, maintenance, or sup-
21 port that are due after the date the petition is filed
22 have been paid,” after “this title,”; and

23 (2) in section 1328(a) by inserting “, and only
24 after a debtor who is required by a judicial or ad-
25 ministrative order to pay alimony to, maintenance

1 for, or support of a spouse, former spouse, or child
2 of the debtor, certifies that all amounts payable
3 under such order for alimony, maintenance, or sup-
4 port that are due after the date the petition is filed
5 have been paid,” after “plan,” the 1st place it ap-
6 pears.

7 (g) CONFORMING AMENDMENTS.—Section 456(b) of
8 the Social Security Act (42 U.S.C. 656(b)) is amended—

9 (1) by inserting “, including interest accrued on
10 such debt under State law,” after “Code”;

11 (2) by striking “and” and inserting “or”; and

12 (3) by striking “released by a discharge” and
13 inserting “nondischargeable”.

14 **SEC. 147. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR**
15 **ALIMONY, MAINTENANCE, AND SUPPORT.**

16 Section 523(a)(5) of title 11, United States Code, is
17 amended to read as follows:

18 “(5) to a spouse, former spouse, or child of the
19 debtor for alimony to, maintenance for, or support
20 of such spouse or child, or to a spouse, former
21 spouse, or child of the debtor, to the extent such
22 debt is the result of a property settlement agree-
23 ment, a hold harmless agreement, or any other type
24 of debt that is not in the nature of alimony, mainte-
25 nance, or support in connection with or incurred by

1 the debtor in the course of a separation agreement,
2 divorce decree, any modifications thereof, or other
3 order of a court of record, determination made in
4 accordance with State or territorial law by a govern-
5 mental unit, but not to the extent that such debt is
6 assigned to another entity, voluntarily, by operation
7 of law, or otherwise (other than debts assigned pur-
8 suant to section 408(a)(4) of the Social Security
9 Act, or such debt that has been assigned to the Fed-
10 eral government, or to a State or political subdivi-
11 sion of such State, or the creditor's attorney);”.

12 **SEC. 148. OTHER EXCEPTIONS TO DISCHARGE.**

13 Section 523 of title 11, United States Code, is
14 amended—

15 (1) by striking paragraph (15), as added by
16 section 304(e)(1) of Public Law 103–394;

17 (2) in subsection (a)(7) by inserting “(including
18 property or funds required to be disgorged)” after
19 “penalty”; and

20 (3) in subsection (c)(1) by striking “(6), or
21 (15)” and inserting “ or (6)”.

22 **SEC. 149. FEES ARISING FROM CERTAIN OWNERSHIP IN-**
23 **TERESTS.**

24 (a) EXCEPTION TO DISCHARGE.—Section 523(a)(16)
25 of title 11, United States Code, is amended—

1 (1) by striking “dwelling” the 1st place it ap-
2 pears;

3 (2) by striking “ownership or” and inserting
4 “ownership,”;

5 (3) by striking “housing” the 1st place it ap-
6 pears; and

7 (4) by striking “but only” and all that follows
8 through “such period,” and inserting “or a lot in a
9 homeowners association, for as long as the debtor or
10 the trustee has a legal, equitable, or possessory own-
11 ership interest in such unit, such corporation, or
12 such lot,”.

13 (b) EXECUTORY CONTRACTS.—Section 365 of title
14 11, United States Code, as amended by section 161, is
15 amended by adding at the end the following:

16 “(q) A debt of a kind described in section 523(a)(16)
17 of this title shall not be considered to be a debt arising
18 from an executory contract.”

19 **Subtitle E—Adequate Protections**
20 **for Lessors**

21 **SEC. 161. GIVING DEBTORS THE ABILITY TO KEEP LEASED**
22 **PERSONAL PROPERTY BY ASSUMPTION.**

23 Section 365 of title 11, United States Code, is
24 amended by adding at the end the following:

1 “(p)(1) If a lease of personal property is rejected or
2 not timely assumed by the trustee under subsection (d),
3 the leased property is no longer property of the estate and
4 the stay under section 362(a) of this title is automatically
5 terminated.

6 “(2) In the case of an individual under chapter 7,
7 the debtor may notify the creditor in writing that the debt-
8 or desires to assume the lease. Upon being so notified,
9 the creditor may, at its option, notify the debtor that it
10 is willing to have the lease assumed by the debtor and
11 may condition such assumption on cure of any outstanding
12 default on terms set by the lessor. If within 30 days of
13 such notice the debtor notifies the lessor in writing that
14 the lease is assumed, the liability under the lease will be
15 assumed by the debtor and not by the estate. The stay
16 under section 362 of this title and the injunction under
17 section 524(a)(2) of this title shall not be violated by noti-
18 fication of the debtor and negotiation of cure under this
19 subsection.

20 “(3) In a case under chapter 11 of this title in which
21 the debtor is an individual and in a case under chapter
22 13 of this title, if the debtor is the lessee with respect
23 to personal property and the lease is not assumed in the
24 plan confirmed by the court, the lease is deemed rejected
25 as of the conclusion of the hearing on confirmation. If the

1 lease is rejected, the stay under section 362 of this title
2 and any stay under section 1301 is automatically termi-
3 nated with respect to the property subject to the lease.”.

4 **SEC. 162. ADEQUATE PROTECTION OF LESSORS AND PUR-**
5 **CHASE MONEY SECURED CREDITORS.**

6 Title 11, United States Code, is amended by adding
7 after section 1306 the following:

8 **“§ 1307A. Adequate protection in chapter 13 cases**

9 “(a)(1) On or before 30 days after the filing of a case
10 under this chapter, the debtor shall make cash payments
11 in the amount described below to any lessor of personal
12 property and to any creditor holding a claim secured by
13 personal property to the extent such claim is attributable
14 to the purchase of such property by the debtor. The debtor
15 or the plan shall continue such payments until the earlier
16 of—

17 “(A) the time at which the creditor begins to
18 receive actual payments under the plan; or

19 “(B) the debtor relinquishes possession of such
20 property to the lessor or creditor, or to any third
21 party acting under claim of right, as applicable.

22 “(2) Such cash payments shall be in the amount of
23 any weekly, biweekly, monthly or other periodic payment
24 scheduled as payable under the contract between the debt-
25 or and creditor; shall be paid at the times at which such

1 payments are scheduled to be made; and shall not include
2 any arrearages, penalties, or default or delinquency
3 charges. Such payments shall be deemed to be adequate
4 protection payments under section 362 of this title.

5 “(b) The court may, after notice and hearing, change
6 the amount and timing of the adequate protection pay-
7 ment under subsection (a), but in no event shall it be pay-
8 able less frequently than monthly or in an amount less
9 than the reasonable depreciation of such property month
10 to month.

11 “(c) Notwithstanding section 1326(b) of this title, if
12 a confirmed plan provides for payments to a creditor or
13 lessor described in subsection (a) and provides that pay-
14 ments to such creditor or lessor under the plan will be
15 deferred until payment of amounts described in section
16 1326(b) of this title, the payments required hereunder
17 shall nonetheless be continued in addition to plan pay-
18 ments until actual payments to the creditor begin under
19 the plan.

20 “(d) Notwithstanding sections 362, 542, and 543 of
21 this title, a lessor or creditor described in subsection (a)
22 may retain possession of property described in subsection
23 (a) which was obtained rightfully prior to the date of filing
24 of the petition until the first such adequate protection pay-
25 ment is received by the lessor or creditor. Such retention

1 of possession and any acts reasonably related thereto shall
2 not violate the stay imposed under section 362(a) of this
3 title, nor any obligations imposed under section 542 or
4 543 of this title.

5 “(e) On or before 60 days after the filing of a case
6 under this chapter, a debtor retaining possession of per-
7 sonal property subject to a lease or securing a claim attrib-
8 utable in whole or in part to the purchase price of that
9 property shall provide each creditor or lessor reasonable
10 evidence of the maintenance of any required insurance
11 coverage with respect to the use or ownership of such
12 property and continue to do so for so long as the debtor
13 retains possession of such property.”.

14 **SEC. 163. ADEQUATE PROTECTION FOR LESSORS.**

15 Section 362(b)(10) of title 11, United States Code,
16 is amended by striking “nonresidential”.

17 **Subtitle F—Bankruptcy Relief Less**
18 **Frequently Available for Repeat**
19 **Filers**

20 **SEC. 171. EXTEND PERIOD BETWEEN BANKRUPTCY DIS-**
21 **CHARGES.**

22 Title 11, United States Code, is amended—

23 (1) in section 727(a)(8) by striking “six” and
24 inserting “10”; and

1 (2) in section 1328 by adding at the end the
2 following:

3 “(f) Notwithstanding subsections (a) and (b), the
4 court shall not grant a discharge of all debts provided for
5 by the plan or disallowed under section 502 of this title
6 if the debtor has received a discharge in any case filed
7 under this title within 5 years of the order for relief under
8 this chapter.”.

9 **Subtitle G—Exemptions**

10 **SEC. 181. EXEMPTIONS.**

11 Section 522(b)(2)(A) of title 11, United States Code,
12 is amended—

13 (1) by striking “180” and inserting “365”; and

14 (2) by striking “, or for a longer portion of
15 such 180-day period than in any other place”.

16 **TITLE II—BUSINESS** 17 **BANKRUPTCY PROVISIONS**

18 **Subtitle A—General Provisions**

19 **SEC. 201. LIMITATION RELATING TO THE USE OF FEE EX-** 20 **AMINERS.**

21 Section 330 of title 11, United States Code, is
22 amended by adding at the end the following:

23 “(e) The court may not appoint any person to exam-
24 ine any request for compensation or reimbursement pay-
25 able under this section.”.

1 **SEC. 202. SHARING OF COMPENSATION.**

2 Section 504 of title 11, United States Code, is
3 amended by adding at the end the following:

4 “(c) This section shall not apply with respect to shar-
5 ing, or agreeing to share, compensation with a bona fide
6 public service attorney referral program that operates in
7 accordance with non-Federal law regulating attorney re-
8 ferral services and with rules of professional responsibility
9 applicable to attorney acceptance of referrals.”.

10 **SEC. 203. CHAPTER 12 MADE PERMANENT LAW.**

11 Section 302(f) of the Bankruptcy Judges, United
12 States Trustees, and Family Farmer Bankruptcy Act of
13 1986 (11 U.S.C. 1201 note) is repealed.

14 **SEC. 204. MEETINGS OF CREDITORS AND EQUITY SECURITY**
15 **HOLDERS.**

16 Section 341 of title 11, United States Code, is
17 amended by adding at the end the following:

18 “(e) Notwithstanding subsections (a) and (b), the
19 court, on the request of a party in interest and after notice
20 and a hearing, for cause may order that the United States
21 trustee not convene a meeting of creditors or equity secu-
22 rity holders if the debtor has filed a plan as to which the
23 debtor solicited acceptances prior to the commencement
24 of the case.”.

1 **SEC. 205. CREDITORS' AND EQUITY SECURITY HOLDERS'**
2 **COMMITTEES.**

3 Section 1102(b) of title 11, United States Code, is
4 amended by adding at the end the following:

5 “(3) The court on its own motion or on request of
6 a party in interest, and after notice and a hearing, may
7 order a change in membership of a committee appointed
8 under subsection (a) if necessary to ensure adequate rep-
9 resentation of creditors or of equity security holders.”.

10 **SEC. 206. POSTPETITION DISCLOSURE AND SOLICITATION.**

11 Section 1125 of title 11, United States Code, is
12 amended by adding at the end the following:

13 “(g) Notwithstanding subsection (b), an acceptance
14 or rejection of the plan may be solicited from a holder
15 of a claim or interest if such solicitation complies with ap-
16 plicable nonbankruptcy law and if such holder was solie-
17 ited before the commencement of the case in a manner
18 complying with applicable nonbankruptcy law.”.

19 **SEC. 207. PREFERENCES.**

20 Section 547(c) of title 11, United States Code, is
21 amended—

22 (1) by amending paragraph (2) to read as fol-
23 lows:

24 “(2) to the extent that such transfer was in
25 payment of a debt incurred by the debtor in the or-

1 dinary course of business or financial affairs of the
2 debtor and the transferee, and such transfer was—

3 “(A) made in the ordinary course of busi-
4 ness or financial affairs of the debtor and the
5 transferee; or

6 “(B) made according to ordinary business
7 terms;”;

8 (2) in paragraph (7) by striking “or” at the
9 end;

10 (3) in paragraph (8) by striking the period at
11 the end and inserting “; or”; and

12 (4) by adding at the end the following:

13 “(9) if, in a case filed by a debtor whose debts
14 are not primarily consumer debts, the aggregate
15 value of all property that constitutes or is affected
16 by such transfer is less than \$5000.”.

17 **SEC. 208. VENUE OF CERTAIN PROCEEDINGS.**

18 Section 1409(b) of title 28, United States Code, is
19 amended by inserting “, or a nonconsumer debt against
20 a noninsider of less than \$10,000,” after “\$5,000”.

21 **SEC. 209. PERIOD FOR FILING PLAN UNDER CHAPTER 11.**

22 Section 1121(d) of title 11, United States Code, is
23 amended—

24 (1) by striking “On” and inserting “(1) Subject
25 to paragraph (1), on”; and

1 (2) by adding at the end the following:

2 “(2)(A) Such 120-day period may not be extended
3 beyond a date that is 18 months after the date of the order
4 for relief under this chapter.

5 “(B) Such 180-day period may not be extended be-
6 yond a date that is 20 months after the date of the order
7 for relief under this chapter.”.

8 **SEC. 210. PERIOD FOR FILING PLAN UNDER CHAPTER 12.**

9 (a) EXTENSION OF PERIOD.—Section 1221 of title
10 11, United States Code, is amended by inserting “to any
11 period not later than 150 days after the order for relief”
12 after “period”.

13 (b) RELIEF FROM THE STAY.—Section 362(d) of
14 title 11, United States Code, is amended—

15 (1) in paragraph (2) by striking “or” at the
16 end;

17 (2) in paragraph (3) by striking the period at
18 the end and inserting “; or”; and

19 (3) by adding at the end the following:

20 “(4) with respect to a stay of an act against
21 property under subsection (a) of a debtor in a case
22 under chapter 12, by a creditor whose claim is se-
23 cured by an interest in such property, unless the
24 debtor has filed a plan in accordance with section
25 1221.”.

1 (c) SPECIAL TREATMENT OF SECURED CLAIMS.—(1)
2 Chapter 12 of title 11, United States Code, is amended
3 by inserting after section 1231 the following:

4 **“§ 1232. Special treatment of secured claims**

5 “(a)(1) A claim secured by a lien on property of the
6 estate shall be allowed or disallowed under section 502 of
7 this title the same as if the holder of such claim had re-
8 course against the debtor on account of such claim, wheth-
9 er or not such holder has such recourse, unless—

10 “(A) subject to paragraph (2), the holder of
11 such claim elects to apply subsection (b); or

12 “(B) such holder does not have such recourse,
13 and such property is sold under section 363 of this
14 title or is to be sold under the plan.

15 “(2) A holder of a claim may not elect to apply sub-
16 section (b) if—

17 “(A) such claim is of inconsequential value; or

18 “(B) the holder of a claim has recourse against
19 the debtor on account of such claim, and such prop-
20 erty is sold under section 363 of this title or is to
21 be sold under the plan.

22 “(b) If such an election is made to apply this sub-
23 section, then notwithstanding section 506(a) of this title,
24 such claim is a secured claim to the extent such claim is
25 allowed.”.

1 (2) The table of sections of chapter 12 of title 11,
2 United States Code, is amended by inserting after the
3 item relating to section 1231 the following:

“1232. Special treatment of secured claims.”.

4 **SEC. 211. CASES ANCILLARY TO FOREIGN PROCEEDINGS**
5 **INVOLVING FOREIGN INSURANCE COMPA-**
6 **NIES THAT ARE ENGAGED IN THE BUSINESS**
7 **OF INSURANCE OR REINSURANCE IN THE**
8 **UNITED STATES.**

9 Section 304 of title 11, United States Code, is
10 amended—

11 (1) in subsection (b) by striking “provisions of
12 subsection (c)” and inserting “subsections (c) and
13 (d)”; and

14 (2) by adding at the end the following:

15 “(d) The court may not grant to a foreign representa-
16 tive of the estate of an insurance company that is not or-
17 ganized under the law of a State and that is engaged in
18 the business of insurance, or reinsurance, in the United
19 States relief under subsection (b) with respect to property
20 that is—

21 “(1) a deposit required by a State law relating
22 to insurance or reinsurance;

23 “(2) a multibeneficiary trust required by a
24 State law relating to insurance or reinsurance to

1 protect holders of insurance policies issued in the
2 United States or to protect holders or claimants
3 against such policies; or

4 “(3) a multibeneficiary trust authorized by a
5 State law relating to insurance or reinsurance to
6 allow a person engaged in the business of insurance
7 in the United States—

8 “(A) to cede reinsurance to such an insur-
9 ance company; and

10 “(B) to treat so ceded reinsurance as an
11 asset, or deduction from liability, in financial
12 statements of such person.”.

13 **SEC. 212. REJECTION OF EXECUTORY CONTRACTS AFFECT-**
14 **ING INTELLECTUAL PROPERTY RIGHTS TO**
15 **RECORDINGS OF ARTISTIC PERFORMANCE.**

16 Section 365(n) of title 11, United States Code, is
17 amended at the end the following:

18 “(5) The rejection by the trustee of an executory con-
19 tract affecting the intellectual property rights to record-
20 ings of artistic performance shall not in any way diminish
21 or impair any applicable nonbankruptcy law rights to en-
22 force noncompetition provision or provisions regarding the
23 rendering of exclusive services as a performing artist that
24 may be contained in such contracts, except that such en-
25 forcement shall be subject to the nondebtor party provid-

1 ing to the debtor notice of an offer to perform the contract
2 under all of its original terms. The rights to enforce such
3 noncompetition or exclusivity provision shall not be treated
4 as claims that can be discharged under this title.”.

5 **SEC. 213.UNEXPIRED LEASES OF NONRESIDENTIAL REAL**
6 **PROPERTY.**

7 Section 365(d)(4) of title 11, United States Code, is
8 amended by inserting “not later than the date of the entry
9 of the order of confirmation” after “fixes”.

10 **Subtitle B—Specific Provisions**

11 **CHAPTER 1—SMALL BUSINESS**

12 **BANKRUPTCY**

13 **SEC. 231. DEFINITIONS.**

14 (a) DEFINITIONS.—Section 101 of title 11, United
15 States Code, is amended by striking paragraph (51C) and
16 inserting the following:

17 “(51C) ‘small business case’ means a case filed
18 under chapter 11 of this title in which the debtor is
19 a small business debtor;”.

20 “(51D) ‘small business debtor’ means—

21 “(A) a person (including affiliates of such
22 person that are also debtors under this title)
23 that has aggregate noncontingent, liquidated se-
24 cured and unsecured debts as of the date of the
25 petition or the order for relief in an amount not

1 more than \$5,000,000 (excluding debts owed to
2 1 or more affiliates or insiders); or

3 “(B) a debtor of the kind described in
4 paragraph (51B) but without regard to the
5 amount of such debtor’s debts;

6 except that if a group of affiliated debtors has ag-
7 gregate noncontingent liquidated secured and unse-
8 cured debts greater than \$5,000,000 (excluding debt
9 owed to 1 or more affiliates or insiders), then no
10 member of such group is a small business debtor;”.

11 (b) CONFORMING AMENDMENT.—Section 1102(a)(3)
12 is amended by inserting “debtor” after “small business”.

13 **SEC. 232. FLEXIBLE RULES FOR DISCLOSURE STATEMENT**
14 **AND PLAN.**

15 Section 1125(f) of title 11, United States Code, is
16 amended to read as follows:

17 “(f) Notwithstanding subsection (b), in a small busi-
18 ness case—

19 “(1) in determining whether a disclosure state-
20 ment provides adequate information, the court shall
21 consider the complexity of the case, the benefit of
22 additional information to creditors and other parties
23 in interest, and the cost of providing additional in-
24 formation;

1 “(2) the court may determine that the plan it-
2 self provides adequate information and that a sepa-
3 rate disclosure statement is not necessary;

4 “(3) the court may approve a disclosure state-
5 ment submitted on standard forms approved by the
6 court or adopted pursuant to section 2075 of title
7 28;

8 “(4)(A) the court may conditionally approve a
9 disclosure statement subject to final approval after
10 notice and a hearing;

11 “(B) acceptances and rejections of a plan may
12 be solicited based on a conditionally approved disclo-
13 sure statement if the debtor provides adequate infor-
14 mation to each holder of a claim or interest that is
15 solicited, but a conditionally approved disclosure
16 statement shall be mailed not less than 20 days be-
17 fore the date of the hearing on confirmation of the
18 plan; and

19 “(C) the hearing on the disclosure statement
20 may be combined with the hearing on confirmation
21 of a plan.”.

22 **SEC. 233. STANDARD FORM DISCLOSURE STATEMENTS AND**
23 **PLANS.**

24 The Advisory Committee on Bankruptcy Rules of the
25 Judicial Conference of the United States shall, within a

1 reasonable period of time after the date of the enactment
2 of this Act, propose for adoption standard form disclosure
3 statements and plans of reorganization for small business
4 debtors (as defined in section 101) of title 11, United
5 States Code, as amended by this Act), designed to achieve
6 a practical balance between—

7 (1) the reasonable needs of the courts, the
8 United States trustee or bankruptcy administrator,
9 creditors, and other parties in interest for reason-
10 ably complete information; and

11 (2) economy and simplicity for debtors.

12 **SEC. 234. UNIFORM NATIONAL REPORTING REQUIRE-**
13 **MENTS.**

14 (a) **REPORTING REQUIRED.**—(1) Title 11 of the
15 United States Code is amended by inserting after section
16 307 the following:

17 **“§ 308. Debtor reporting requirements**

18 “A small business debtor shall file periodic financial
19 and other reports containing information including—

20 “(1) the debtor’s profitability, that is, approxi-
21 mately how much money the debtor has been earn-
22 ing or losing during current and recent fiscal peri-
23 ods;

1 “(2) reasonable approximations of the debtor’s
2 projected cash receipts and cash disbursements over
3 a reasonable period;

4 “(3) comparisons of actual cash receipts and
5 disbursements with projections in prior reports;

6 “(4) whether the debtor is—

7 “(A) in compliance in all material respects
8 with postpetition requirements imposed by this
9 title and the Federal Rules of Bankruptcy Pro-
10 cedure; and

11 “(B) timely filing tax returns and paying
12 taxes and other administrative claims when due,
13 and, if not, what the failures are and how, at
14 what cost, and when the debtor intends to rem-
15 edy such failures; and

16 “(5) such other matters as are in the best inter-
17 ests of the debtor and creditors, and in the public
18 interest in fair and efficient procedures under chap-
19 ter 11 of this title.”.

20 (2) The table of sections of chapter 3 of title 11,
21 United States Code, is amended by inserting after the
22 item relating to section 307 the following:

 “308. Debtor reporting requirements.”.

23 (b) **EFFECTIVE DATE.**—The amendments made by
24 subsection (a) shall take effect 60 days after the date on
25 which rules are prescribed pursuant to section 2075, title

1 28, United States Code to establish forms to be used to
2 comply with section 308 of title 11, United States Code,
3 as added by subsection (a).

4 **SEC. 235. UNIFORM REPORTING RULES AND FORMS.**

5 After consultation with the Director of the Executive
6 for United States Trustees and with the Judicial Con-
7 ference of the United States, the Attorney General of the
8 United States shall propose for adoption amended Federal
9 Rules of Bankruptcy Procedure and Official Bankruptcy
10 Forms to be used by small business debtors to comply with
11 section 308 of title 11, United States Code, as added by
12 section 234 of this Act to achieve a practical balance be-
13 tween—

14 (1) the reasonable needs of the courts, the
15 United States trustee or bankruptcy administrator,
16 creditors, and other parties in interest for reason-
17 ably complete information; and

18 (2) economy and simplicity for debtors in cases
19 under such title.

20 **SEC. 236. DUTIES IN SMALL BUSINESS CASES.**

21 (a) DUTIES IN CHAPTER 11 CASES.—Title 11 of the
22 United States Code is amended by inserting after section
23 1114 the following:

1 **“§ 1115. Duties of trustee or debtor in possession in**
2 **small business cases**

3 “In a small business case, a trustee or the debtor in
4 possession, in addition to the duties provided in this title
5 and as otherwise required by law, shall—

6 “(1) append to the voluntary petition or, in an
7 involuntary case, file within 3 days after the date of
8 the order for relief—

9 “(A) its most recent balance sheet, state-
10 ment of operations, cash-flow statement, Fed-
11 eral income tax return; or

12 “(B) a statement made under penalty of
13 perjury that no balance sheet, statement of op-
14 erations, or cash-flow statement has been pre-
15 pared and no Federal tax return has been filed;

16 “(2) attend, through its senior management
17 personnel and counsel, meetings scheduled by the
18 court or the United States trustee, including initial
19 debtor interviews, scheduling conferences, and meet-
20 ings of creditors convened under section 341 of this
21 title;

22 “(3) timely file all schedules and statements of
23 financial affairs, unless the court, after notice and a
24 hearing, grants an extension, which shall not extend
25 such time period to a date later than 30 days after

1 the date of the order for relief, absent extraordinary
2 and compelling circumstances;

3 “(4) file all postpetition financial and other re-
4 ports required by the Federal Rules of Bankruptcy
5 Procedure or by local rule of the district court;

6 “(5) subject to section 363(c)(2), maintain in-
7 surance customary and appropriate to the industry;

8 “(6)(A) timely file tax returns;

9 “(B) subject to section 363(c)(2), timely pay all
10 administrative expense tax claims, except those
11 being contested by appropriate proceedings being
12 diligently prosecuted; and

13 “(C) subject to section 363(c)(2), establish 1 or
14 more separate deposit accounts not later than 10
15 business days after the date of order for relief (or
16 as soon thereafter as possible if all banks contacted
17 decline the business) and deposit therein, not later
18 than 1 business day after receipt thereof, all taxes
19 payable for periods beginning after the date the case
20 is commenced that are collected or withheld by the
21 debtor for governmental units; and

22 “(7) allow the United States trustee or bank-
23 ruptcy administrator, or its designated representa-
24 tive, to inspect the debtor’s business premises,
25 books, and records at reasonable times, after reason-

1 able prior written notice, unless notice is waived by
2 the debtor.”.

3 (b) TECHNICAL AMENDMENT.—The table of sections
4 of chapter 11, United States Code, is amended by insert-
5 ing after the item relating to section 1114 the following:
 “1115. Duties of trustee or debtor in possession in small business cases.”.

6 **SEC. 237. PLAN FILING AND CONFIRMATION DEADLINES.**

7 Section 1121(e) of title 11, United States Code, is
8 amended to read as follows:

9 “(e) In a small business case—

10 “(1) only the debtor may file a plan until after
11 90 days after the date of the order for relief, unless
12 shortened on request of a party in interest made
13 during the 90-day period, or unless extended as pro-
14 vided by this subsection, after notice and hearing the
15 court, for cause, orders otherwise;

16 “(2) the plan, and any necessary disclosure
17 statement, shall be filed not later than 90 days after
18 the date of the order for relief; and

19 “(3) the time periods specified in paragraphs
20 (1) and (2), and the time fixed in section 1129(e)
21 of this title, within which the plan shall be confirmed
22 may be extended only if—

23 “(A) the debtor, after providing notice to
24 parties in interest (including the United States
25 trustee), demonstrates by a preponderance of

1 the evidence that it is more likely than not that
2 the court will confirm a plan within a reason-
3 able time;

4 “(B) a new deadline is imposed at the time
5 the extension is granted; and

6 “(C) the order extending time is signed be-
7 fore the existing deadline has expired.”.

8 **SEC. 238. PLAN CONFIRMATION DEADLINE.**

9 Section 1129 of title 11, United States Code, is
10 amended by adding at the end the following:

11 “(e) In a small business case, the plan shall be con-
12 firmed not later than 150 days after the date of the order
13 for relief unless such 150-day period is extended as pro-
14 vided in section 1121(e)(3) of this title.”.

15 **SEC. 239. PROHIBITION AGAINST EXTENSION OF TIME.**

16 Section 105(d) of title 11, United States Code, is
17 amended—

18 (1) in subparagraph (B) by striking the period
19 at the end and inserting “; and”; and

20 (2) by adding at the end the following:

21 “(3) in a small business case, not extend the
22 time periods specified in sections 1121(e) and
23 1129(e) of this title except as provided in section
24 1121(e)(3) of this title.”.

1 **SEC. 240. DUTIES OF THE UNITED STATES TRUSTEE AND**
2 **BANKRUPTCY ADMINISTRATOR.**

3 (a) DUTIES OF THE UNITED STATES TRUSTEE.—
4 Section 586(a) of title 28, United States Code, is amend-
5 ed—

6 (1) in paragraph (3)—

7 (A) in subparagraph (G) by striking “and”
8 at the end;

9 (B) by redesignating subparagraph (H) as
10 subparagraph (I); and

11 (C) by inserting after subparagraph (G)
12 the following:

13 “(H) in small business cases (as defined in
14 section 101 of title 11), performing the addi-
15 tional duties specified in title 11 pertaining to
16 such cases;”,

17 (2) in paragraph (5) by striking “and” at the
18 end,

19 (3) by redesignating paragraph (6) as para-
20 graph (7), and

21 (4) by inserting after paragraph (5) the follow-
22 ing:

23 “(6) in each of such small business cases—

24 “(A) conduct an initial debtor interview as
25 soon as practicable after the entry of order for
26 relief but before the first meeting scheduled

1 under section 341(a) of title 11 at which time
2 the United States trustee shall begin to inves-
3 tigate the debtor's viability, inquire about the
4 debtor's business plan, explain the debtor's obli-
5 gations to file monthly operating reports and
6 other required reports, attempt to develop an
7 agreed scheduling order, and inform the debtor
8 of other obligations;

9 “(B) when determined to be appropriate
10 and advisable, visit the appropriate business
11 premises of the debtor and ascertain the state
12 of the debtor's books and records and verify
13 that the debtor has filed its tax returns; and

14 “(C) review and monitor diligently the
15 debtor's activities, to identify as promptly as
16 possible whether the debtor will be unable to
17 confirm a plan;

18 “(D) in cases where the United States
19 trustee finds material grounds for any relief
20 under section 1112 of title 11 move the court
21 promptly for relief; and”.

22 (b) DUTIES OF THE BANKRUPTCY ADMINIS-
23 TRATOR.—In a small business case (as defined in section
24 101 of title 11 of the United States Code), the bankruptcy

1 administrator shall perform the duties specified in section
2 586(a)(6) of title 28 of the United States Code.

3 **SEC. 241. SCHEDULING CONFERENCES.**

4 Section 105(d) of title 11, United States Code, is
5 amended—

6 (1) in the matter preceding paragraph (1) by
7 striking “, may”;

8 (2) by amending paragraph (1) to read as fol-
9 lows:

10 “(1) shall hold such status conferences as are
11 necessary to further the expeditious and economical
12 resolution of the case; and”; and

13 (3) in paragraph (2) by striking “unless incon-
14 sistent with another provision of this title or with
15 applicable Federal Rules of Bankruptcy Procedure,”
16 and inserting “may”.

17 **SEC. 242. SERIAL FILER PROVISIONS.**

18 Section 362 of title 11, United States Code, is
19 amended—

20 (1) in subsection (h)—

21 (A) by striking “An” and inserting “(1)
22 Except as provided in paragraph (2), an”;

23 (B) by adding at the end the following:

24 “(2) If such violation is based on an action taken by
25 an entity in the good faith belief that subsection (h) ap-

1 plies to the debtor, then recovery under paragraph (1)
2 against such entity shall be limited to actual damages.”;
3 and

4 (C) by redesignating such subsection as
5 subsection (i); and

6 (2) by inserting after subsection (g) the follow-
7 ing:

8 “(h) The filing of a petition under chapter 11 of this
9 title operates as a stay of the acts described in subsection
10 (a) only in an involuntary case involving no collusion by
11 the debtor with creditors and in which the debtor—

12 “(1) is a debtor in a small business case pend-
13 ing at the time the petition is filed;

14 “(2) was a debtor in a small business case
15 which was dismissed for any reason by an order that
16 became final in the 2-year period ending on the date
17 of the order for relief entered with respect to the pe-
18 tition;

19 “(3) was a debtor in a small business case in
20 which a plan was confirmed in the 2-year period
21 ending on the date of the order for relief entered
22 with respect to the petition; or

23 “(4) is an entity that has succeeded to substan-
24 tially all of the assets or business of a small business
25 debtor described in subparagraph (A), (B), or (C)

1 unless the debtor proves, by a preponderance of the
2 evidence, that the filing of such petition resulted
3 from circumstances beyond the control of the debtor
4 not foreseeable at the time the case then pending
5 was filed; and that it is more likely than not that
6 the court will confirm a feasible plan, but not a liq-
7 uidating plan, within a reasonable time.”.

8 **SEC. 243. EXPANDED GROUNDS FOR DISMISSAL OR CON-**
9 **VERSION AND APPOINTMENT OF TRUSTEE.**

10 (a) EXPANDED GROUNDS FOR DISMISSAL OR CON-
11 VERSION.—Section 1112(b) of title 11, United States
12 Code, is amended to read as follows:

13 “(b)(1) Except as provided in paragraph (2), in sub-
14 section (c), and in section 1104(a)(3) of this title, on re-
15 quest of a party in interest, and after notice and a hear-
16 ing, the court shall convert a case under this chapter to
17 a case under chapter 7 of this title or dismiss a case under
18 this chapter, whichever is in the best interest of creditors
19 and the estate, if the movant establishes cause.

20 “(2) The relief provided in paragraph (1) shall not
21 be granted if the debtor or another party in interest ob-
22 jects and establishes, by a preponderance of the evidence
23 that—

24 “(A) it is more likely than not that a plan will
25 be confirmed within a time as fixed by this title or

1 by order of the court entered pursuant to section
2 1121(e)(3), or within a reasonable time if no time
3 has been fixed; and

4 “(B) if the reason is an act or omission of the
5 debtor that—

6 “(i) there exists a reasonable justification
7 for the act or omission; and

8 “(ii) the act or omission will be cured with-
9 in a reasonable time fixed by the court not to
10 exceed 30 days after the court decides the mo-
11 tion, unless the movant expressly consents to a
12 continuance for a specific period of time, or
13 compelling circumstances beyond the control of
14 the debtor justify an extension.

15 “(3) For purposes of this subsection, cause in-
16 cludes—

17 “(A) substantial or continuing loss to or dimi-
18 nution of the estate;

19 “(B) gross mismanagement of the estate;

20 “(C) failure to maintain appropriate insurance;

21 “(D) unauthorized use of cash collateral harm-
22 ful to 1 or more creditors;

23 “(E) failure to comply with an order of the
24 court;

1 “(F) failure timely to satisfy any filing or re-
2 porting requirement established by this title or by
3 any rule applicable to a case under this chapter;

4 “(G) failure to attend the meeting of creditors
5 convened under section 341(a) of this title or an ex-
6 amination ordered under Federal Rules of Bank-
7 ruptcy Procedure 2004;

8 “(H) failure timely to provide information or
9 attend meetings reasonably requested by the United
10 States trustee;

11 “(I) failure timely to pay taxes due after the
12 date of the order for relief or to file tax returns due
13 after the order for relief;

14 “(J) failure to file a disclosure statement, or to
15 file or confirm a plan, within the time fixed by this
16 title or by order of the court;

17 “(K) failure to pay any fees or charges required
18 under chapter 123 of title 28;

19 “(L) revocation of an order of confirmation
20 under section 1144 of this title, and denial of con-
21 firmation of another plan or of a modified plan
22 under section 1129 of this title;

23 “(M) inability to effectuate substantial con-
24 summation of a confirmed plan;

1 “(N) material default by the debtor with re-
2 spect to a confirmed plan; and

3 “(O) termination of a plan by reason of the oc-
4 currence of a condition specified in the plan.

5 “(4) The court shall commence the hearing on any
6 motion under this subsection not later than 30 days after
7 filing of the motion, and shall decide the motion within
8 15 days after commencement of the hearing, unless the
9 movant expressly consents to a continuance for a specific
10 period of time or compelling circumstances prevent the
11 court from meeting the time limits established by this
12 paragraph.”.

13 (b) ADDITIONAL GROUNDS FOR APPOINTMENT OF
14 TRUSTEE.—Section 1104(a) of title 11, United States
15 Code, is amended—

16 (1) in paragraph (1) by striking “or” at the
17 end;

18 (2) in paragraph (2) by striking the period at
19 the end and inserting “; or”; and

20 (3) by adding at the end the following:

21 “(3) if grounds exist to convert or dismiss the
22 case under section 1112 of this title, but the court
23 determines that the appointment of a trustee is in
24 the best interests of creditors and the estate.”.

1 CHAPTER 2—SINGLE ASSET REAL ESTATE**2 SEC. 251. SINGLE ASSET REAL ESTATE DEFINED.**

3 Section 101(51B) of title 11, United States Code, is
4 amended to read as follows:

5 “(51B) ‘single asset real estate’ means undevel-
6 oped real property or other real property constitut-
7 ing a single property or project, other than residen-
8 tial real property with fewer than 4 residential units,
9 on which is located a single development or project
10 which property or project generates substantially all
11 of the gross income of a debtor and on which no
12 substantial business is being conducted by a debtor,
13 or by a commonly controlled group of entities all of
14 which are concurrently debtors in a case under chap-
15 ter 11 of this title, other than the business of oper-
16 ating the real property and activities incidental
17 thereto;”.

18 SEC. 252. PAYMENT OF INTEREST.

19 Section 362(d)(3) of title 11, United States Code, is
20 amended—

21 (1) by inserting “or 30 days after the court de-
22 termines that the debtor is subject to this para-
23 graph, whichever is later” after “90-day period”;
24 and

1 (2) by amending subparagraph (B) to read as
2 follows:

3 “(B) the debtor has commenced monthly
4 payments (which payments may, in the debtor’s
5 sole discretion, notwithstanding section
6 363(c)(2) of this title, be made from rents or
7 other income generated before or after the com-
8 mencement of the case by or from the property)
9 to each creditor whose claim is secured by such
10 real estate (other than a claim secured by a
11 judgment lien or by an unmatured statutory
12 lien), which payments are in an amount equal
13 to interest at the then-applicable nondefault
14 contract rate of interest on the value of the
15 creditor’s interest in the real estate.”.

16 **SEC. 253. LIMITATIONS ON AVOIDING POWERS.**

17 Section 546 of title 11, United States Code, is
18 amended—

19 (1) by striking subsections (c) and (d), and in-
20 serting the following:

21 “(c)(1) Except as provided in paragraph (2) and not-
22 withstanding the rights and powers of a trustee under sec-
23 tions 544(a), 545, 547, 549, and 553 of this title—

24 “(A) the trustee shall return goods, or the pro-
25 ceeds of goods, shipped by the creditor before the

1 commencement of the case and received by the debt-
2 or within 90 days before the date of the filing of the
3 petition for resale by the debtor; and

4 “(B) the creditor may offset such goods or such
5 proceeds against any claim of the creditor against
6 the debtor that arose before the commencement of
7 the case.

8 Any goods, or proceeds of goods, so returned shall be re-
9 turned free and clear of any security interest that attached
10 to such goods or such proceeds before the commencement
11 of the case.

12 “(2) Upon application by the trustee, not later than
13 120 days after the date of the order for relief and after
14 notice and a hearing, the court may deny return of such
15 goods or such proceeds to the creditor only if—

16 “(A) the creditor waived in writing before
17 the commencement of the case its right to a re-
18 turn of such goods and such proceeds; or

19 “(B) the court grants—

20 “(i) the claim for such goods or such
21 proceeds priority of the kind specified in
22 section 507(b) of this title; or

23 “(ii) such creditor a lien securing such
24 claim.”;

25 (2) by striking the 2d subsection (g); and

1 (3) by redesignating subsections (e) through the
2 1st subsection (g) as subsections (d) through (f), re-
3 spectively.

4 **TITLE III—MUNICIPAL**
5 **BANKRUPTCY PROVISIONS**

6 **SEC. 301. PETITION AND PROCEEDINGS RELATED TO PETI-**
7 **TION.**

8 (a) TECHNICAL AMENDMENT RELATING TO MUNICI-
9 PALITIES.—Section 921(d) of title 11, United States
10 Code, is amended by inserting “notwithstanding section
11 301(b)” before the period at the end.

12 (b) CONFORMING AMENDMENT.—Section 301 of title
13 11, United States Code, is amended—

14 (1) by inserting “(a)” before “A voluntary”;
15 and

16 (2) by amending the last sentence to read as
17 follows:

18 “(b) The commencement of a voluntary case
19 under a chapter of this title constitutes an order for
20 relief under such chapter.”.

1 **TITLE IV—BANKRUPTCY**
2 **ADMINISTRATION**
3 **Subtitle A—General Provisions**

4 **SEC. 401. ADEQUATE PREPARATION TIME FOR CREDITORS**
5 **BEFORE THE MEETING OF CREDITORS IN IN-**
6 **DIVIDUAL CASES.**

7 Section 341(a) of title 11, United States Code, is
8 amended by inserting after the first sentence the follow-
9 ing: “If the debtor is an individual in a voluntary case
10 under chapter 7, 11, or 13, the meeting of creditors shall
11 not be convened earlier than 60 days (or later than 90
12 days) after the date of the order for relief, unless the
13 court, after notice and hearing, determines unusual cir-
14 cumstances justify an earlier meeting.”.

15 **SEC. 402. CREDITOR REPRESENTATION AT FIRST MEETING**
16 **OF CREDITORS.**

17 Section 341(c) of title 11, United States Code, is
18 amended by inserting after the first sentence the follow-
19 ing: “Notwithstanding any local court rule, provision of
20 a State constitution, any other State or Federal nonbank-
21 ruptcy law, or other requirement that representation at
22 the meeting of creditors under subsection (a) be by an at-
23 torney, a creditor holding a consumer debt or its rep-
24 resentatives (which representatives may include an entity
25 or an employee of an entity and may be a representative

1 for more than 1 creditor) shall be permitted to appear at
2 and participate in the meeting of creditors in a case under
3 chapter 7 or 13 either alone or in conjunction with an
4 attorney for the creditor. Nothing in this subsection shall
5 be construed to require any creditor to be represented by
6 an attorney at any meeting of creditors.”.

7 **SEC. 403. FILING PROOFS OF CLAIM.**

8 Section 501 of title 11, United States Code, is
9 amended by adding at the end the following:

10 “(e) In a case under chapter 7 or 13, a proof of claim
11 or interest is deemed filed under this section for any claim
12 or interest that appears in the schedules filed under sec-
13 tion 521(a)(1) of this title, except a claim or interest that
14 is scheduled as disputed, contingent, or unliquidated.”.

15 **SEC. 404. AUDIT PROCEDURES.**

16 (a) AMENDMENT.—Section 586 of title 28, United
17 States Code, as amended by section 111, is amended—

18 (1) by amending subsection (a)(6) to read as
19 follows:

20 “(6) make such reports as the Attorney General
21 directs, including the results of audits performed
22 under subsection (f).”;

23 (2) by inserting at the end the following:

24 “(f)(1) The Attorney General shall establish proce-
25 dures for the auditing of the accuracy and completeness

1 of petitions, schedules, and other information which the
2 debtor is required to provide under sections 521 and 1322,
3 and, if applicable, section 111, of title 11 in individual
4 cases filed under chapter 7 or 13 of such title. Such audits
5 shall be in accordance with generally accepted auditing
6 standards and performed by independent certified public
7 accountants or independent licensed public accountants.
8 Such procedures shall—

9 “(A) establish a method of selecting appropriate
10 qualified persons to contract with the United States
11 trustee to perform such audits;

12 “(B) establish a method of randomly selecting
13 cases to be audited according to generally accepted
14 audit standards, provided that no less than 1 out of
15 every 100 cases in each Federal judicial district shall
16 be selected for audit;

17 “(C) require audits for schedules of income and
18 expenses which reflect higher than average variances
19 from the statistical norm of the district in which the
20 schedules were filed;

21 “(D) establish procedures for reporting the re-
22 sults of such audits and any material misstatement
23 of income, expenditures or assets of a debtor to the
24 Attorney General, the United States Attorney and
25 the court, as appropriate, and for providing public

1 information no less than annually on the aggregate
2 results of such audits including the percentage of
3 cases, by district, in which a material misstatement
4 of income or expenditures is reported; and

5 “(E) establish procedures for fully funding such
6 audits.

7 “(2) The United States trustee for each district is
8 authorized to contract with auditors to perform audits in
9 cases designated by the United States trustee according
10 to the procedures established under paragraph (1) of this
11 subsection.

12 “(3) According to procedures established under para-
13 graph (1), upon request of a duly appointed auditor, the
14 debtor shall cause the accounts, papers, documents, finan-
15 cial records, files and all other papers, things or property
16 belonging to the debtor as the auditor requests and which
17 are reasonably necessary to facilitate an audit to be made
18 available for inspection and copying.

19 “(4) The report of each such audit shall be filed with
20 the court, the Attorney General, and the United States
21 Attorney, as required under procedures established by the
22 Attorney General under paragraph (1). If a material
23 misstatement of income or expenditures or of assets is re-
24 ported, a statement specifying such misstatement shall be
25 filed with the court and the United States trustee shall

1 give notice thereof to the creditors in the case and, in an
2 appropriate case, in the opinion of the United States trust-
3 ee, requires investigation with respect to possible criminal
4 violations, the United States Attorney for the district.”.

5 (b) EFFECTIVE DATE.—The amendments made by
6 this section shall take effect 18 months after the date of
7 the enactment of this Act.

8 **SEC. 405. GIVING CREDITORS FAIR NOTICE IN CHAPTER 7**
9 **AND 13 CASES.**

10 Section 342 of title 11, United States Code, is
11 amended—

12 (1) in subsection (c)—

13 (A) by striking “, but the failure of such
14 notice to contain such information shall not in-
15 validate the legal effect of such notice”; and

16 (B) by adding the following at the end:

17 “If the credit agreement between the debtor and the credi-
18 tor or the last communication before the filing of the peti-
19 tion in a voluntary case from the creditor to a debtor who
20 is an individual states an account number of the debtor
21 which is the current account number of the debtor with
22 respect to any debt held by the creditor against the debtor,
23 the debtor shall include such account number in any notice
24 to the creditor required to be given under this title. If the
25 creditor has specified to the debtor an address at which

1 the creditor wishes to receive correspondence regarding
2 the debtor's account, any notice to the creditor required
3 to be given by the debtor under this title shall be given
4 at such address. For the purposes of this section, 'notice'
5 shall include, but shall not be limited to, any correspond-
6 ence from the debtor to the creditor after the commence-
7 ment of the case, any statement of the debtor's intention
8 under section 521(a)(2) of this title, notice of the com-
9 mencement of any proceeding in the case to which the
10 creditor is a party, and any notice of the hearing under
11 section 1324.”;

12 (2) by adding at the end of section 342 the fol-
13 lowing:

14 “(d) At any time, a creditor in a case of an individual
15 debtor under chapter 7 or 13 may file with the court and
16 serve on the debtor a notice of the address to be used to
17 notify the creditor in that case. Five days after receipt
18 of such notice, if the court or the debtor is required to
19 give the creditor notice, such notice shall be given at that
20 address.

21 “(e) An entity may file with the court a notice stating
22 its address for notice in cases under chapters 7 and 13.
23 After 30 days following the filing of such notice, any notice
24 in any case filed under chapter 7 or 13 given by the court

1 shall be to that address unless specific notice is given
2 under subsection (d) with respect to a particular case.

3 “(f) Notice given to a creditor other than as provided
4 in this section shall not be effective notice until it has been
5 brought to the attention of the creditor. If the creditor
6 has designated a person or department to be responsible
7 for receiving notices concerning bankruptcy cases and has
8 established reasonable procedures so that bankruptcy no-
9 tices received by the creditor will be delivered to such de-
10 partment or person, notice will not be brought to the at-
11 tention of the creditor until received by such person or
12 department. No sanction under section 362(h) of this title
13 or any other sanction which a court may impose on ac-
14 count of violations of the stay under section 362(a) of this
15 title or failure to comply with section 542 or 543 of this
16 title may be imposed on any action of the creditor unless
17 the action takes place after the creditor has received notice
18 of the commencement of the case effective under this sec-
19 tion.”.

20 **SEC. 406. DEBTOR TO PROVIDE TAX RETURNS AND OTHER**
21 **INFORMATION.**

22 Section 521 of title 11, United States Code, is
23 amended—

24 (1) by inserting “(a)” before “The”;

1 (2) by amending paragraph (1) to read as fol-
2 lows:

3 “(1) file—

4 “(A) a list of creditors, and

5 “(B) unless the court orders otherwise—

6 “(i) a schedule of assets and liabil-
7 ities;

8 “(ii) a schedule of current income and
9 current expenditures;

10 “(iii) a statement of the debtor’s fi-
11 nancial affairs;

12 “(iv) copies of all payment advices or
13 other evidence of payment, if any, received
14 by the debtor from any employer of the
15 debtor in the period 60 days prior to the
16 filing of the petition;

17 “(v) a statement of the amount of
18 projected monthly net income, itemized to
19 show how calculated;

20 “(vi) if applicable, any statement
21 under paragraphs (3) and (4) of section
22 109(h);

23 “(vii) a statement disclosing any rea-
24 sonably anticipated increase in income or
25 expenditures over the next 12 months; and

1 “(viii) a certificate, if applicable—

2 “(I) of an attorney whose name
3 is on the petition as the attorney for
4 the debtor, or of any bankruptcy peti-
5 tion preparer who signed the petition
6 pursuant to section 110(b)(1) of this
7 title, indicating that such attorney or
8 bankruptcy petition preparer delivered
9 to the debtor any notice required by
10 section 342(b)(1) of this title; or

11 “(II) if no attorney for the debt-
12 or is indicated and no bankruptcy pe-
13 tition preparer signed the petition of
14 the debtor, that such notice was ob-
15 tained and read by the debtor.”; and

16 (3) by adding at the end the following:

17 “(b) At any time, a creditor in a case of an individual
18 debtor under chapter 7 or 13 may file with the court and
19 serve on the debtor notice that the creditor requests the
20 petition, schedules, and statement of financial affairs filed
21 by the debtor in the case. At any time, a creditor in a
22 case under chapter 13 of this title may file with the court
23 and serve on the debtor notice that the creditor requests
24 the plan filed by the debtor in the case. Within 10 days
25 of the first such request in a case under this subsection

1 for the petition, schedules, and statement of financial af-
2 fairs and the first such request for the plan under this
3 subsection, the debtor shall serve on that creditor a con-
4 formed copy of the requested documents or plan and any
5 amendments thereto as of that date, and shall thereafter
6 promptly serve on that creditor at the time filed with the
7 court—

8 “(1) any requested document or plan which is
9 not filed with the court at the time requested; and

10 “(2) any amendment to any requested docu-
11 ment or plan.

12 “(c)(1) An individual debtor in a case under chapter
13 7 or 13 shall provide to the United States trustee—

14 “(A) copies of all Federal tax returns (including
15 any schedules and attachments) filed by the debtor
16 for the 3 most recent tax years preceding the order
17 for relief;

18 “(B) at the time the debtor files them with the
19 Commissioner of Internal Revenue, all Federal tax
20 returns (including any schedules and attachments)
21 for the debtor’s tax years ending while such case is
22 pending; and

23 “(C) at the time the debtor files them with the
24 Commissioner of Internal Revenue, all amendments

1 to the tax returns (including schedules and attach-
2 ments) described in subparagraphs (A) and (B).

3 “(2)(A) The United States trustee shall make such
4 Federal tax returns (including schedules, attachments,
5 and amendments) available to any party in interest for
6 inspection and copying not later than 10 days after receiv-
7 ing a request by such party.

8 “(B) If the United States trustee does not comply
9 with subparagraph (A), on the motion of such party, the
10 court shall issue an order compelling the United States
11 trustee to comply with subparagraph (A).

12 “(d) A debtor in a case under chapter 13 of this title
13 shall file, from a time which is the later of 90 days after
14 the close of the debtor’s tax year or 1 year after the order
15 for relief unless a plan has then been confirmed, and
16 thereafter on or before 45 days before each anniversary
17 of the confirmation of the plan until the case is closed,
18 a statement subject to the penalties of perjury by the debt-
19 or of the debtor’s income and expenditures in the preced-
20 ing tax year and monthly net income, showing how cal-
21 culated. Such statement shall disclose the amount and
22 sources of income of the debtor, the identity of any per-
23 sons responsible with the debtor for the support of any
24 dependents of the debtor, and any persons who contrib-
25 uted and the amount contributed to the household in

1 which the debtor resides. Such tax returns, amendments
2 and statement of income and expenditures shall be avail-
3 able to the United States trustee, any bankruptcy admin-
4 istrator, any trustee and any party in interest for inspec-
5 tion and copying.”.

6 **SEC. 407. DISMISSAL FOR FAILURE TO FILE SCHEDULES**
7 **TIMELY OR PROVIDE REQUIRED INFORMA-**
8 **TION.**

9 Section 521 of title 11, United States Code, as
10 amended by section 407, is amended by adding at the end
11 the following:

12 “(e) Notwithstanding section 707(a) of this title, if
13 an individual debtor in a voluntary case under chapter 7
14 or 13 fails to provide all of the information required under
15 subsections (a)(1) and (c)(1)(A) within 45 days after the
16 filing of the petition, the case shall be automatically dis-
17 missed effective on the 46th day after the filing of the
18 petition without the need for any order of court, but any
19 party in interest may request the court to enter an order
20 dismissing the case and the court shall, if so requested,
21 enter an order of dismissal within 5 days of such request.
22 Upon request of the debtor made within 45 days after the
23 filing of the petition, the court may allow the debtor up
24 to an additional 15 days to provide the information re-

1 quired under subsections (a)(1) and (c)(1)(A) if the court
2 finds compelling justification for doing so.

3 “(f) If an individual debtor in a case under chapter
4 7 or 13 fails to perform any of the duties imposed by sub-
5 sections (b), (c)(1)(B), (c)(1)(C), and (d), any party in
6 interest may request that the court order the debtor to
7 comply. Within 10 days of such request the court shall
8 order that the debtor do so within a period of time set
9 by the court no longer than 30 days. If the debtor does
10 not comply with that order within the period of time set
11 by the court, the court shall, on request of any party in
12 interest certifying that the debtor has not so complied,
13 enter an order dismissing the case within 5 days of such
14 request.”.

15 **SEC. 408. ADEQUATE TIME TO PREPARE FOR HEARING ON**
16 **CONFIRMATION OF THE PLAN.**

17 Section 1324 of title 11, United States Code, is
18 amended—

19 (1) by striking “After” and inserting the follow-
20 ing:

21 “(a) Except as provided in subsection (b) and after”;
22 and

23 (2) by adding at the end the following:

24 “(b) The hearing on confirmation of the plan may
25 be held not earlier than 20 days, and not later than 45

1 days, after the meeting of creditors under section 341(a)
2 of this title.”.

3 **SEC. 409. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION**
4 **IN CERTAIN CASES.**

5 Title 11, United States Code, is amended—

6 (1) by amending section 1322(d) to read as fol-
7 lows:

8 “(d) If the total current monthly income of the debtor
9 and in a joint case, the debtor and the debtor’s spouse
10 combined, is 75 percent of the highest national median
11 family income reported for a family of equal or lesser size
12 or, in the case of a household of 1 person, 75 percent of
13 the national median household income for 1 earner, or
14 more, the plan may not provide for payments over a period
15 that is longer than 5 years, unless the court, for cause,
16 approves a longer period, but the court may not approve
17 a period that exceeds 7 years. If the total current monthly
18 income of the debtor or in a joint case, the debtor and
19 the debtor’s spouse combined, is less than 75 percent of
20 the highest national median family income reported for a
21 family of equal or lesser size, or in the case of a household
22 of 1 person less than 75 percent of the national median
23 household income for 1 earner, the plan may not provide
24 for payments over a period that is longer than 3 years,
25 unless the court, for cause, approves a longer period, but

1 the court may not approve a period that is longer than
2 5 years.”;

3 (2) in section 1329—

4 (A) by striking in subsection (c) “three
5 years” and inserting “the applicable commit-
6 ment period under section 1325(b)(1)(B)(ii)”
7 and by striking “five years” and inserting
8 “maximum duration period”; and

9 (B) by inserting at the end of subsection
10 (c) the following:

11 “The maximum duration period shall be 5 years if the
12 total current monthly income of the debtor, and in a joint
13 case, the debtor and the debtor’s spouse combined, is 75
14 percent of the highest national median family income re-
15 ported for a family of equal or lesser size or, in the case
16 of a household of 1 person, 75 percent of the national me-
17 dian household income for 1 earner, or more as of the
18 date of the modification and shall be 3 years if the total
19 current monthly income is less than 75 percent of the
20 highest national median family income reported for a fam-
21 ily of equal or lesser size or, in the case of a household
22 of 1 person, less than 75 percent of the national median
23 household income for 1 earner as of the date of the modi-
24 fication.”.

1 **SEC. 410. SENSE OF THE CONGRESS REGARDING EXPAN-**
2 **SION OF RULE 9011 OF THE FEDERAL RULES**
3 **OF BANKRUPTCY PROCEDURE.**

4 It is the sense of the Congress that rule 9011 of the
5 Federal Rules of Bankruptcy Procedure (11 U.S.C. App)
6 should be modified to include a requirement that all docu-
7 ments (including schedules), signed and unsigned, submit-
8 ted to the court or to a trustee by debtors who represent
9 themselves and debtors who are represented by an attor-
10 ney be submitted only after the debtor or the debtor's at-
11 torney has made reasonable inquiry to verify that the in-
12 formation contained in such documents is well grounded
13 in fact, and is warranted by existing law or a good faith
14 argument for the extension, modification, or reversal of
15 existing law.

16 **SEC. 411. JURISDICTION OF COURTS OF APPEALS.**

17 (a) JURISDICTION.—Title 28 of the United States
18 Code is amended—

19 (1) by striking section 158;

20 (2) by inserting after section 1292 the follow-
21 ing:

22 **“§ 1293. Bankruptcy appeals**

23 “The courts of appeals (other the United States
24 Court of Appeals for the Federal Circuit) shall have juris-
25 diction of appeals from the following:

1 “(1) Final orders and judgments of bankruptcy
2 courts entered under—

3 “(A) section 157(b) of this title in core
4 proceedings arising under title 11, or arising in
5 or related to a case under title 11; or

6 “(B) section 157(c)(2) of this title in pro-
7 ceedings referred to such courts.

8 “(2) Final orders and judgments of district
9 courts entered under section 157 of this title in—

10 “(A) core proceedings arising under title
11 11, or arising in or related to a case under title
12 11; or

13 “(B) proceedings that are not core pro-
14 ceedings, but that are otherwise related to a
15 case under title 11.

16 “(3) Orders and judgments of bankruptcy
17 courts or district courts entered under section 105
18 of title 11, or the refusal to enter an order or judg-
19 ment under such section.

20 “(4) Orders of bankruptcy courts or district
21 courts entered under section 1104(a) or 1121(d) of
22 title 11, or the refusal to enter an order under such
23 section.

24 “(5) An interlocutory order of a bankruptcy
25 court or district court entered in a case under title

1 11, in a proceeding arising under title 11, or in a
2 proceeding arising in or related to a case under title
3 11, if—

4 “(A) such court is of the opinion that—

5 “(i) such order involves a controlling
6 question of law as to which there is sub-
7 stantial ground for difference of opinion;
8 and

9 “(ii) an immediate appeal from such
10 order may materially advance the ultimate
11 termination of such case or such proceed-
12 ing; or

13 “(B) the court of appeals that would have
14 jurisdiction of an appeal of a final order entered
15 in such case or such proceeding permits, in its
16 discretion, appeal to be taken from such inter-
17 locutory order.”; and

18 (3) in—

19 (A) the table of sections for chapter 6 by
20 striking the item relating to section 158; and

21 (B) the table of sections for chapter 83 by
22 inserting after the item relating to section 1292
23 the following:

“1293. Bankruptcy appeals.”.

1 (b) CONFORMING AMENDMENTS.—(1) Section 305(c)
2 of title 11, the United States Code, is amended by striking
3 “158(d), 1291, or 1292” and inserting “1291, 1292, or
4 1293”; and

5 (2) title 28 of the United States Code is amended—

6 (A) in subsections (b)(1) and (c)(2) of section
7 157 by striking “section 158” and inserting “section
8 1293”;

9 (B) in section 1334(d) by striking “158(d),
10 1291, or 1292” and inserting “1291, 1292, or
11 1293”; and

12 (C) in section 1452(b) by striking “158(d),
13 1291, or 1292” and inserting “1291, 1292, or
14 1293”.

15 **SEC. 412. ESTABLISHMENT OF OFFICIAL FORMS.**

16 The Judicial Conference of the United States shall
17 establish official forms to facilitate compliance with the
18 amendments made by sections 101 and 102.

19 **Subtitle B—Data Provisions**

20 **SEC. 441. IMPROVED BANKRUPTCY STATISTICS.**

21 (a) AMENDMENT.—Title 28, United States Code, is
22 amended by adding after section 158 the following new
23 section:

1 **“§ 159. Bankruptcy statistics**

2 “The Director of the Executive Office for United
3 States Trustees shall compile statistics regarding individ-
4 ual debtors with primarily consumer debts seeking relief
5 under chapters 7, 11, and 13 of title 11, United States
6 Code. Such statistics shall be in a form prescribed by the
7 Administrative Office of the United States Courts. The
8 Office shall compile such statistics, and make them public,
9 and report annually to the Congress on the information
10 collected, and on its analysis thereof, no later than Octo-
11 ber 31 of each year. Such compilation shall be itemized
12 by chapter of title 11 of the United States Code, shall
13 be presented in the aggregate and for each district, and
14 shall include the following:

15 “(1) Total assets and total liabilities of such
16 debtors, and in each category of assets and liabil-
17 ities, as reported in the schedules prescribed pursu-
18 ant to section 2075 of this title and filed by such
19 debtors.

20 “(2) The current total monthly income, pro-
21 jected monthly net income, and average income and
22 average expenses of such debtors as reported on the
23 schedules and statements the debtor has filed under
24 sections 111, 521, and 1322 of title 11.

25 “(3) The aggregate amount of debt discharged
26 in the reporting period, determined as the difference

1 between the total amount of debt and obligations of
2 a debtor reported on the schedules and the amount
3 of such debt reported in categories which are pre-
4 dominantly nondischargeable.

5 “(4) The average time between the filing of the
6 petition and the closing of the case.

7 “(5) The number of cases in the reporting pe-
8 riod in which a reaffirmation was filed and the total
9 number of reaffirmations filed in that period, and of
10 those cases in which a reaffirmation was filed, the
11 number in which the debtor was not represented by
12 an attorney, and of those the number of cases in
13 which the reaffirmation was approved by the court.

14 “(6) With respect to cases filed under chapter
15 13 of title 11—

16 “(A) the number of cases in which a final
17 order was entered determining the value of
18 property securing a claim less than the claim,
19 and the total number of such orders in the re-
20 porting period; and

21 “(B) the number of cases dismissed for
22 failure to make payments under the plan.

23 “(7) The number of cases in which the debtor
24 filed another case within the 6 years previous to the
25 filing.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall take effect 18 months after the date
3 of the enactment of this Act.

4 **SEC. 442. BANKRUPTCY DATA.**

5 (a) AMENDMENT.—Title 28 of the United States
6 Code is amended by inserting after section 589a the fol-
7 lowing:

8 **“§ 589b. Bankruptcy data**

9 “(a) RULES.—The Attorney General shall, within a
10 reasonable time after the effective date of this section,
11 issue rules requiring uniform forms for (and from time
12 to time thereafter to appropriately modify and approve)—

13 “(1) final reports by trustees in cases under
14 chapters 7, 12, and 13 of title 11; and

15 “(2) periodic reports by debtors in possession or
16 trustees, as the case may be, in cases under chapter
17 11 of title 11.

18 “(b) REPORTS.—All reports referred to in subsection
19 (a) shall be designed (and the requirements as to place
20 and manner of filing shall be established) so as to facili-
21 tate compilation of data and maximum possible access of
22 the public, both by physical inspection at 1 or more central
23 filing locations, and by electronic access through the
24 Internet or other appropriate media.

1 “(c) REQUIRED INFORMATION.—The information re-
2 quired to be filed in the reports referred to in subsection
3 (b) shall be that which is in the best interests of debtors
4 and creditors, and in the public interest in reasonable and
5 adequate information to evaluate the efficiency and practi-
6 cality of the Federal bankruptcy system. In issuing rules
7 proposing the forms referred to in subsection (a), the At-
8 torney General shall strike the best achievable practical
9 balance between—

10 “(1) the reasonable needs of the public for in-
11 formation about the operational results of the Fed-
12 eral bankruptcy system; and

13 “(2) economy, simplicity, and lack of undue
14 burden on persons with a duty to file reports.

15 “(d) FINAL REPORTS.—Final reports proposed for
16 adoption by trustees under chapters 7, 12, and 13 of title
17 11 shall, in addition to such other matters as are required
18 by law or as the Attorney General in the discretion of the
19 Attorney General, shall propose, include with respect to
20 a case under such title—

21 “(1) information about the length of time the
22 case was pending;

23 “(2) assets abandoned;

24 “(3) assets exempted;

25 “(4) receipts and disbursements of the estate;

1 “(5) expenses of administration;

2 “(6) claims asserted;

3 “(7) claims allowed;

4 “(8) distributions to claimants and claims dis-
5 charged without payment;

6 in each case by appropriate category and, in cases under
7 chapters 12 and 13 of title 11, date of confirmation of
8 the plan, each modification thereto, and defaults by the
9 debtor in performance under the plan.

10 “(e) PERIODIC REPORTS.—Periodic reports proposed
11 for adoption by trustees or debtors in possession under
12 chapter 11 of title 11 shall, in addition to such other mat-
13 ters as are required by law or as the Attorney General,
14 in the discretion of the Attorney General, shall propose,
15 include—

16 “(1) information about the standard industry
17 classification, published by the Department of Com-
18 merce, for the businesses conducted by the debtor;

19 “(2) length of time the case has been pending;

20 “(3) number of full-time employees as at the
21 date of the order for relief and at end of each re-
22 porting period since the case was filed;

23 “(4) cash receipts, cash disbursements and
24 profitability of the debtor for the most recent period

1 and cumulatively since the date of the order for re-
2 lief;

3 “(5) compliance with title 11, whether or not
4 tax returns and tax payments since the date of the
5 order for relief have been timely filed and made;

6 “(6) all professional fees approved by the court
7 in the case for the most recent period and cumula-
8 tively since the date of the order for relief (sepa-
9 rately reported, in for the professional fees incurred
10 by or on behalf of the debtor, between those that
11 would have been incurred absent a bankruptcy case
12 and those not); and

13 “(7) plans of reorganization filed and confirmed
14 and, with respect thereto, by class, the recoveries of
15 the holders, expressed in aggregate dollar values
16 and, in the case of claims, as a percentage of total
17 claims of the class allowed.”.

18 (b) TECHNICAL AMENDMENT.—The table of sections
19 of chapter 39 of title 28, United States Code, is amended
20 by adding at the end the following:

“589b. Bankruptcy data.”.

21 **SEC. 443. SENSE OF THE CONGRESS REGARDING AVAIL-**
22 **ABILITY OF BANKRUPTCY DATA.**

23 It is the sense of the Congress that—

24 (1) the national policy of the United States
25 should be that all data held by bankruptcy clerks in

1 electronic form, to the extent such data reflects only
2 public records (as defined in section 107 of title 11
3 of the United States Code), should be released in a
4 usable electronic form in bulk to the public subject
5 to such appropriate privacy concerns and safeguards
6 as the Judicial Conference of the United States may
7 determine; and

8 (2) there should be established a bankruptcy
9 data system in which—

10 (A) a single set of data definitions and
11 forms are used to collect data nationwide; and

12 (B) data for any particular bankruptcy
13 case are aggregated in the same electronic
14 record.

15 **TITLE V—TAX PROVISIONS**

16 **SEC. 501. TREATMENT OF CERTAIN LIENS.**

17 (a) TREATMENT OF CERTAIN LIENS.—Section 724
18 of title 11, United States Code, is amended—

19 (1) in subsection (b), in the matter preceding
20 paragraph (1), by inserting “(other than to the ex-
21 tent that there is a properly perfected unavoidable
22 tax lien arising in connection with an ad valorem tax
23 on real or personal property of the estate)” after
24 “under this title”;

1 (2) in subsection (b)(2), after “507(a)(1)”, in-
2 sert “(except that such expenses, other than claims
3 for wages, salaries, or commissions which arise after
4 the filing of a petition, shall be limited to expenses
5 incurred under chapter 7 of this title and shall not
6 include expenses incurred under chapter 11 of this
7 title)”; and

8 (3) by adding at the end the following:

9 “(e) Before subordinating a tax lien on real or per-
10 sonal property of the estate, the trustee shall—

11 “(1) exhaust the unencumbered assets of the
12 estate; and

13 “(2) in a manner consistent with section 506(c)
14 of this title, recover from property securing an al-
15 lowed secured claim the reasonable, necessary costs
16 and expenses of preserving or disposing of that prop-
17 erty.

18 “(f) Notwithstanding the exclusion of ad valorem tax
19 liens set forth in this section and subject to the require-
20 ments of subsection (e)—

21 “(1) claims for wages, salaries, and commis-
22 sions that are entitled to priority under section
23 507(a)(3) of this title; or

1 “(2) claims for contributions to an employee
2 benefit plan entitled to priority under section
3 507(a)(4) of this title,
4 may be paid from property of the estate which secures
5 a tax lien, or the proceeds of such property.”.

6 (b) DETERMINATION OF TAX LIABILITY.—Section
7 505(a)(2) of title 11, United States Code, is amended—

8 (1) in subparagraph (A), by striking “or” at
9 the end;

10 (2) in subparagraph (B), by striking the period
11 at the end and inserting “; or”; and

12 (3) by adding at the end the following:

13 “(C) the amount or legality of any amount arising
14 in connection with an ad valorem tax on real or
15 personal property of the estate, if the applicable period
16 for contesting or redetermining that amount
17 under any law (other than a bankruptcy law) has expired.”.

19 **SEC. 502. EFFECTIVE NOTICE TO GOVERNMENT.**

20 (a) EFFECTIVE NOTICE TO GOVERNMENTAL
21 UNITS.—Section 342 of title 11, United States Code, as
22 amended by section 405, is amended by adding at the end
23 the following:

24 “(g) If a debtor lists a governmental unit as a creditor
25 in a list or schedule, any notice required to be given

1 by the debtor under this title, any rule, any applicable law,
2 or any order of the court, shall identify the department,
3 agency, or instrumentality through which the debtor is in-
4 debted. The debtor shall—

5 “(1) list all business entities in which the debt-
6 or was an officer or held equity security;

7 “(2) list all names, including married, maiden
8 or other names, current and former business or
9 trade names, used by the debtor; and

10 “(3) identify (with information such as a tax-
11 payer identification number, loan, account or con-
12 tract number, or real estate parcel number, where
13 applicable), and describe the underlying basis for the
14 governmental unit’s claim.

15 “(h) The clerk shall keep and update quarterly, in
16 the form and manner as the Director of the Administra-
17 tive Office of the United States Courts prescribes, and
18 make available to debtors, a register in which a govern-
19 mental unit may designate a safe harbor mailing address
20 for service of notice in cases pending in the district. A
21 governmental unit may file a statement with the clerk des-
22 ignating a safe harbor address to which notices are to be
23 sent, unless such governmental unit files a notice of
24 change of address.”.

1 (b) ADOPTION OF RULES PROVIDING NOTICE.—The
2 Advisory Committee on Bankruptcy Rules of the Judicial
3 Conference shall, within a reasonable period of time after
4 the date of the enactment of this Act, propose for adoption
5 enhanced rules for providing notice to State, Federal, and
6 local government units that have regulatory authority over
7 the debtor or which may be creditors in the debtor’s case.
8 Such rules shall be reasonably calculated to ensure that
9 notice will reach the representatives of the governmental
10 unit, or subdivision thereof, who will be the proper persons
11 authorized to act upon the notice. At a minimum, the rules
12 should require that the debtor—

13 “(1) identify in the schedules and the notice,
14 the subdivision, agency, or entity in respect of which
15 such notice should be received;

16 “(2) provide sufficient information (such as
17 case captions, permit numbers, taxpayer identifica-
18 tion numbers, or similar identifying information) to
19 permit the governmental unit or subdivision thereof,
20 entitled to receive such notice, to identify the debtor
21 or the person or entity on behalf of which the debtor
22 is providing notice where the debtor may be a suc-
23 cessor in interest or may not be the same as the per-
24 son or entity which incurred the debt or obligation;
25 and

1 “(3) identify, in appropriate schedules, served
2 together with the notice, the property in respect of
3 which the claim or regulatory obligation may have
4 arisen, if any, the nature of such claim or regulatory
5 obligation and the purpose for which notice is being
6 given.”.

7 (c) EFFECT OF FAILURE OF NOTICE.—Section 342
8 of title 11, United States Code, as amended by subsection
9 (a) and section 405, is amended by adding at the end the
10 following:

11 “(i)(1) A notice that does not comply with sub-
12 sections (d) and (e) shall have no effect unless the debtor
13 demonstrates, by clear and convincing evidence, that time-
14 ly notice was given in a manner reasonably calculated to
15 satisfy the requirements of this section was given, and
16 that—

17 “(A) either the notice was timely sent to the
18 safe harbor address provided in the register main-
19 tained by the clerk of the district in which the case
20 was pending for such purposes; or

21 “(B) no safe harbor address was provided in
22 such list for the governmental unit and that an offi-
23 cer of the governmental unit who is responsible for
24 the matter or claim had actual knowledge of the case
25 in sufficient time to act.

1 “(2) No sanction under section 362(h) of this title
2 or any other sanction which a court may impose on ac-
3 count of violations of the stay under section 362(a) of this
4 title or failure to comply with section 542 or 543 of this
5 title may be imposed unless the action takes place after
6 notice of the commencement of the case as required by
7 this section has been received.”.

8 **SEC. 503. NOTICE OF REQUEST FOR A DETERMINATION OF**
9 **TAXES.**

10 Section 505(b) of title 11, United States Code, is
11 amended by striking “Unless” at the beginning of the sec-
12 ond sentence thereof and inserting “If the request is made
13 in the manner designated by the governmental unit and
14 unless”.

15 **SEC. 504. RATE OF INTEREST ON TAX CLAIMS.**

16 Chapter 5 of title 11, United States Code, is amended
17 by adding at the end the following:

18 **“§ 511. Rate of interest on tax claims**

19 “If the holder of an unsecured claim for taxes arising
20 before the date of the order for relief is entitled to receive
21 interest on such claim for any period after the filing of
22 the petition, the minimum rate of interest to be applied
23 during such period shall be the Federal short-term rate
24 rounded to the nearest full percent, determined under sec-
25 tion 1274(d) of the Internal Revenue Code of 1986, for

1 the calendar month in which the plan is confirmed, plus
2 3 percentage points.”.

3 **SEC. 505. TOLLING OF PRIORITY OF TAX CLAIM TIME PERI-**
4 **ODS.**

5 Section 507(a)(8)(A) of title 11, United States Code,
6 is amended—

7 (1) in clause (i) by inserting after “petition”
8 and before the semicolon “, plus any time, plus 6
9 months, during which the stay of proceedings was in
10 effect in a prior case under this title”; and

11 (2) amend clause (ii) to read as follows:

12 “(ii) assessed within 240 days before the
13 date of the filing of the petition, exclusive of—

14 “(I) any time plus 30 days during
15 which an offer in compromise with respect
16 of such tax, was pending or in effect dur-
17 ing such 240-day period;

18 “(II) any time plus 30 days during
19 which an installment agreement with re-
20 spect of such tax was pending or in effect
21 during such 240-day period, up to 1 year;
22 and

23 “(III) any time plus 6 months during
24 which a stay of proceedings against collec-

1 tions was in effect in a prior case under
2 this title during such 240-day period.”.

3 **SEC. 506. ASSESSMENT DEFINED.**

4 Section 101 of title 11, United States Code, is
5 amended by inserting after paragraph (2) the following:

6 “(3) ‘assessment’—

7 “(A) for purposes of State and local taxes,
8 means that point in time when all actions re-
9 quired have been taken so that thereafter a tax-
10 ing authority may commence an action to col-
11 lect the tax, and

12 “(B) for Federal tax purposes has the
13 meaning given such term in the Internal Reve-
14 nue Code of 1986;

15 and ‘assessed’ and ‘assessable’ shall be interpreted
16 in light of the definition of assessment in this para-
17 graph;”.

18 **SEC. 507. CHAPTER 13 DISCHARGE OF FRAUDULENT AND**
19 **OTHER TAXES.**

20 Section 1328(a)(2) of title 11, United States Code,
21 is amended by inserting “(1),” after “paragraph” and be-
22 fore “(5)”.

23 **SEC. 508. CHAPTER 11 DISCHARGE OF FRAUDULENT TAXES.**

24 Section 1141(d) of title 11, United States Code, is
25 amended by adding at the end the following:

1 “(4) Notwithstanding the provisions of paragraph
2 (1), the confirmation of a plan does not discharge a debtor
3 which is a corporation from any debt for a tax or customs
4 duty with respect to which the debtor made a fraudulent
5 return or willfully attempted in any manner to evade or
6 defeat such tax.”.

7 **SEC. 509. THE STAY OF TAX PROCEEDINGS.**

8 (a) THE SECTION 362 STAY LIMITED TO
9 PREPETITION TAXES.—Section 362(a)(8) of title 11,
10 United States Code, is amended by striking the period at
11 the end and inserting “, in respect of a tax liability for
12 a taxable period ending before the order for relief.”.

13 (b) THE APPEAL OF TAX COURT DECISIONS PER-
14 MITTED.—Section 362(b)(9) of title 11, United States
15 Code, is amended—

16 (1) in subparagraph (C) by striking “or” at the
17 end,

18 (2) in subparagraph (D) by striking the period
19 at the end and inserting “; or”, and

20 (3) by adding at the end the following:

21 “(E) the appeal of a decision by a court or
22 administrative tribunal which determines a tax
23 liability of the debtor without regard to whether
24 such determination was made prepetition or
25 postpetition.”.

1 **SEC. 510. PERIODIC PAYMENT OF TAXES IN CHAPTER 11**

2 **CASES.**

3 Section 1129(a)(9) of title 11, United States Code,
4 is amended—

5 (1) in subparagraph (B) by striking “and” at
6 the end, and

7 (2) in subparagraph (C)—

8 (A) by striking “deferred cash payments”
9 and inserting “regular installment payments in
10 cash, no more than 3 months apart, beginning
11 no later than the effective date of the plan,
12 which shall be substantial and not disproportion-
13 ate in amount in relation to all payments in
14 satisfaction of tax claims and the treatment of
15 other creditors under the plan”; and

16 (B) by striking “assessment of such claim”
17 and inserting “the filing of the petition”.

18 **SEC. 511. THE AVOIDANCE OF STATUTORY TAX LIENS PRO-**
19 **HIBITED.**

20 Section 545(2) of title 11, United States Code, is
21 amended by striking the semicolon at the end and insert-
22 ing “, except where such purchaser is a purchaser de-
23 scribed in section 6323 of the Internal Revenue Code of
24 1986 or similar provision of State or local law;”.

1 **SEC. 512. PAYMENT OF TAXES IN THE CONDUCT OF BUSI-**
2 **NESS.**

3 (a) PAYMENT OF TAXES REQUIRED.—Section 960 of
4 title 28, United States Code, is amended—

5 (1) by inserting “(a)” before “Any”; and

6 (2) by adding at the end the following:

7 “(b) Such taxes shall be paid when due in the conduct
8 of such business unless—

9 “(1) the tax is a property tax secured by a lien
10 against property that is abandoned within a reason-
11 able time after the lien attaches, by the trustee of
12 a bankruptcy estate, pursuant to section 554 of title
13 11; or

14 “(2) payment of the tax is excused under a spe-
15 cific provision of title 11.

16 “(c) In a case pending under chapter 7 of title 11,
17 payment of a tax may be deferred until final distribution
18 is made under section 726 of title 11 if—

19 “(1) the tax was not incurred by a trustee duly
20 appointed under chapter 7 of title 11; or

21 “(2) before the due date of the tax, the court
22 has made a finding of probable insufficiency of
23 funds of the estate to pay in full the administrative
24 expenses allowed under section 503(b) of title 11
25 that have the same priority in distribution under
26 section 726(b) of title 11 as such tax.”.

1 (b) PAYMENT OF AD VALOREM TAXES REQUIRED.—
2 Section 503(b)(1)(B) of title 11, United States Code, is
3 amended in clause (i) by inserting after “estate,” and be-
4 fore “except” the following: “whether secured or unse-
5 cured, including property taxes for which liability is in rem
6 only, in personam or both,”.

7 (c) REQUEST FOR PAYMENT OF ADMINISTRATIVE
8 EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of
9 title 11, United States Code, is amended by adding at the
10 end the following:

11 “(D) notwithstanding the requirements of
12 subsection (a) of this section, a governmental
13 unit shall not be required to file a request for
14 the payment of a claim described in subpara-
15 graph (B) or (C);”.

16 **SEC. 513. TARDILY FILED PRIORITY TAX CLAIMS.**

17 Section 726(a)(1) of title 11, United States Code, is
18 amended by striking “before the date the trustee com-
19 mences distribution under this section” and inserting “the
20 court approves the final report and accounting of the
21 trustee within 10 days following the mailing to creditors
22 of the summary of the trustee’s final report, or the date
23 on which the trustee commences distribution under this
24 section, whichever is earlier, such that creditors would be

1 required to disgorge all or a portion of a distribution to
2 effect proper distribution according to this section”.

3 **SEC. 514. INCOME TAX RETURNS PREPARED BY TAX AU-**
4 **THORITIES.**

5 Section 523(a)(1)(B) of title 11, United States Code,
6 is amended—

7 (1) by inserting “or equivalent report or no-
8 tice,” after “a return,”;

9 (2) in clause (i) by inserting “or given” after
10 “filed”;

11 (3) in clause (ii) by—

12 (A) by inserting “or given” after “filed”;

13 (B) by inserting “, report, or notice” after
14 “return”; and

15 (C) striking “or” at the end, and

16 (3) by adding at the end the following:

17 “(iii) for purposes of this subsection,
18 a return—

19 “(I) must satisfy the require-
20 ments of applicable nonbankruptcy
21 law, and includes a return prepared
22 pursuant to section 6020(a) of the In-
23 ternal Revenue Code of 1986, or simi-
24 lar State or local law, or a written
25 stipulation to a judgment entered by a

1 nonbankruptcy tribunal, but does not
2 include a return made pursuant to
3 section 6020(b) of the Internal Reve-
4 nue Code of 1986, or similar State or
5 local law, and

6 “(II) must have been filed in a
7 manner permitted by applicable non-
8 bankruptcy law; or”.

9 **SEC. 515. THE DISCHARGE OF THE ESTATE’S LIABILITY FOR**
10 **UNPAID TAXES.**

11 Section 505(b) of title 11, United States Code, is
12 amended in the second sentence by inserting “the estate,”
13 after “misrepresentation,”.

14 **SEC. 516. REQUIREMENT TO FILE TAX RETURNS TO CON-**
15 **FIRM CHAPTER 13 PLANS.**

16 (a) FILING OF PREPETITION TAX RETURNS RE-
17 QUIRED FOR PLAN CONFIRMATION.—Section 1325(a) of
18 title 11, United States Code, is amended—

19 (1) in subparagraph (5)(C) by striking “and”
20 at the end;

21 (2) in paragraph (6) by striking the period at
22 the end and inserting “; and”; and

23 (3) by adding at the end the following:

1 “(7) if the debtor has filed all Federal, State,
2 and local tax returns as required by section 1308 of
3 this title.”.

4 (b) ADDITIONAL TIME PERMITTED FOR FILING TAX
5 RETURNS.—(1) Chapter 13 of title 11, United States
6 Code, is amended by adding at the end the following:

7 **“§ 1308. Filing of prepetition tax returns**

8 “(a) On or before the day prior to the day on which
9 the first meeting of the creditors is convened under section
10 341(a) of this title, the debtor shall have filed with appro-
11 priate tax authorities all tax returns for all taxable periods
12 ending in the 6-year period ending on the date of filing
13 of the petition.

14 “(b) If the tax returns required by subsection (a)
15 have not been filed by the date on which the first meeting
16 of creditors is convened under section 341(a) of this title,
17 the trustee may continue such meeting for a reasonable
18 period of time, to allow the debtor additional time to file
19 any unfiled returns, but such additional time shall be no
20 more than—

21 “(1) for returns that are past due as of the
22 date of the filing of the petition, 120 days from such
23 date, and

24 “(2) for returns which are not past due as of
25 the date of the filing of the petition, the later of 120

1 days from such date or the due date for such re-
2 turns under the last automatic extension of time for
3 filing such returns to which the debtor is entitled,
4 and for which request has been timely made, accord-
5 ing to applicable nonbankruptcy law,

6 “(3) upon notice and hearing, and order en-
7 tered before the lapse of any deadline fixed accord-
8 ing to this subsection, where the debtor dem-
9 onstrates, by clear and convincing evidence, that the
10 failure to file the returns as required is because of
11 circumstances beyond the control of the debtor, the
12 court may extend the deadlines set by the trustee as
13 provided in this subsection for—

14 “(A) a period of no more than 30 days for
15 returns described in paragraph (1) of this sub-
16 section, and

17 “(B) for no more than the period of time
18 ending on the applicable extended due date for
19 the returns described in paragraph (2).

20 “(c) For purposes of this section, a return—

21 “(1) must satisfy the requirements of applicable
22 nonbankruptcy law, and includes a return prepared
23 pursuant to section 6020(a) of the Internal Revenue
24 Code of 1986, or similar State or local law, or a
25 written stipulation to a judgment entered by a non-

1 bankruptcy tribunal, but does not include a return
2 made pursuant to section 6020(b) of the Internal
3 Revenue Code of 1986, or similar State or local law,
4 and

5 “(2) must have been filed in a manner per-
6 mitted by applicable nonbankruptcy law.”.

7 (2) The table of sections of chapter 13 of title 11,
8 United States Code, is amended by inserting after the
9 item relating to section 1307 the following:

“1308. Filing of prepetition tax returns.”.

10 (c) DISMISSAL OR CONVERSION ON FAILURE TO
11 COMPLY.—Section 1307 of title 11, United States Code,
12 is amended—

13 (1) by redesignating subsections (e) and (f) as
14 subsections (f) and (g), respectively, and

15 (2) by inserting after subsection (d) the follow-
16 ing:

17 “(e) Upon the failure of the debtor to file tax returns
18 under section 1308 of this title, on request of a party in
19 interest or the United States trustee and after notice and
20 a hearing, the court shall dismiss a case or convert a case
21 under this chapter to a case under chapter 7 of this title,
22 whichever is in the best interests of creditors and the es-
23 tate.”.

24 (d) TIMELY FILED CLAIMS.—Section 502(b)(9) of
25 title 11, United States Code, is amended by striking the

1 period at the end and inserting “, and except that in a
2 case under chapter 13 of this title, a claim of a govern-
3 mental unit for a tax in respect of a return filed under
4 section 1308 of this title shall be timely if it is filed on
5 or before 60 days after such return or returns were filed
6 as required.”.

7 (e) RULES FOR OBJECTIONS TO CLAIMS AND TO
8 CONFIRMATION.—It is the sense of Congress that the Ad-
9 visory Committee on Bankruptcy Rules of the Judicial
10 Conference should, within a reasonable period of time
11 after the date of the enactment of this Act, propose for
12 adoption amended Federal Rules of Bankruptcy Proce-
13 dure which provide that—

14 (1) notwithstanding the provisions of Rule
15 3015(f), in cases under chapter 13 of title 11, Unit-
16 ed States Code, a governmental unit may object to
17 the confirmation of a plan on or before 60 days after
18 the debtor files all tax returns required under sec-
19 tions 1308 and 1325(a)(7) of title 11, and

20 (2) in addition to the provisions of Rule 3007,
21 in a case under chapter 13 of title 11, United States
22 Code, no objection to a tax in respect of a return re-
23 quired to be filed under section 1308 shall be filed
24 until such return has been filed as required.

1 **SEC. 517. STANDARDS FOR TAX DISCLOSURE.**

2 Section 1125(a) of title 11, United States Code, is
3 amended in paragraph (1)—

4 (1) by inserting after “records,” and before
5 “that” the following: “including a full discussion of
6 the potential material Federal and State tax con-
7 sequences of the plan to the debtor, any successor
8 to the debtor, and a hypothetical investor typical of
9 the holders of claims or interests in the case,”

10 (2) by inserting “such” after “enable” and be-
11 fore “a”, and

12 (3) by striking “reasonable” where it appears
13 after “hypothetical” and before “investor” and by
14 striking “typical of the holders of claims or inter-
15 ests” after “investor” and before “of”.

16 **SEC. 518. SETOFF OF TAX REFUNDS.**

17 Section 362(b) of title 11, United States Code, as
18 amended by section 130, is amended—

19 (1) in paragraph (18) by striking “or”,

20 (2) in paragraph (19) by striking the period at
21 the end and inserting “; or”, and

22 (3) by inserting after paragraph (19) the fol-
23 lowing:

24 “(20) under subsection (a) of the setoff of an
25 income tax refund, by a governmental unit, in re-
26 spect of a taxable period which ended before the

1 order for relief against an income tax liability for a
 2 taxable period which also ended before the order for
 3 relief, unless—

4 “(A) prior to such setoff, an action to de-
 5 termine the amount or legality of such tax li-
 6 ability under section 505(a) was commenced;

7 “(B) where the setoff of an income tax re-
 8 fund is not permitted because of a pending ac-
 9 tion to determine the amount or legality of a
 10 tax liability, the governmental unit may hold
 11 the refund pending the resolution of the ac-
 12 tion.”.

13 **TITLE VI—ANCILLARY AND** 14 **OTHER CROSS-BORDER CASES**

15 **SEC. 601. AMENDMENT TO ADD A CHAPTER 6 TO TITLE 11,** 16 **UNITED STATES CODE.**

17 (a) IN GENERAL.—Title 11, United States Code, is
 18 amended by inserting after chapter 5 the following:

19 **“CHAPTER 6—ANCILLARY AND OTHER** 20 **CROSS-BORDER CASES**

“Sec.

“601. Purpose and scope of application.

“SUBCHAPTER I—GENERAL PROVISIONS

“602. Definitions.

“603. International obligations of the United States.

“604. Commencement of ancillary case.

“605. Authorization to act in a foreign country.

“606. Public policy exception.

“607. Additional assistance.

“608. Interpretation.

“SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND
CREDITORS TO THE COURT

“609. Right of direct access.

“610. Limited jurisdiction.

“611. Commencement of bankruptcy case under section 301 or 303.

“612. Participation of a foreign representative in a case under this title.

“613. Access of foreign creditors to a case under this title.

“614. Notification to foreign creditors concerning a case under this title.

“SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING
AND RELIEF

“615. Application for recognition of a foreign proceeding.

“616. Presumptions concerning recognition.

“617. Order recognizing a foreign proceeding.

“618. Subsequent information.

“619. Relief that may be granted upon petition for recognition of a foreign proceeding.

“620. Effects of recognition of a foreign main proceeding.

“621. Relief that may be granted upon recognition of a foreign proceeding.

“622. Protection of creditors and other interested persons.

“623. Actions to avoid acts detrimental to creditors.

“624. Intervention by a foreign representative.

“SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND
FOREIGN REPRESENTATIVES

“625. Cooperation and direct communication between the court and foreign courts or foreign representatives.

“626. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.

“627. Forms of cooperation.

“SUBCHAPTER V—CONCURRENT PROCEEDINGS

“628. Commencement of a case under this title after recognition of a foreign main proceeding.

“629. Coordination of a case under this title and a foreign proceeding.

“630. Coordination of more than 1 foreign proceeding.

“631. Presumption of insolvency based on recognition of a foreign main proceeding.

“632. Rule of payment in concurrent proceedings.

1 “§ 601. Purpose and scope of application

2 “(a) The purpose of this chapter is to incorporate the
3 Model Law on Cross-Border Insolvency so as to provide
4 effective mechanisms for dealing with cases of cross-border
5 insolvency with the objectives of—

1 “(1) cooperation between—

2 “(A) United States courts, United States
3 Trustees, trustees, examiners, debtors, and
4 debtors in possession; and

5 “(B) the courts and other competent au-
6 thorities of foreign countries involved in cross-
7 border insolvency cases;

8 “(2) greater legal certainty for trade and in-
9 vestment;

10 “(3) fair and efficient administration of cross-
11 border insolvencies that protects the interests of all
12 creditors, and other interested entities, including the
13 debtor;

14 “(4) protection and maximization of the value
15 of the debtor’s assets; and

16 “(5) facilitation of the rescue of financially
17 troubled businesses, thereby protecting investment
18 and preserving employment.

19 “(b) This chapter applies where—

20 “(1) assistance is sought in the United States
21 by a foreign court or a foreign representative in con-
22 nection with a foreign proceeding;

23 “(2) assistance is sought in a foreign country in
24 connection with a case under this title;

1 “(3) a foreign proceeding and a case under this
2 title with respect to the same debtor are taking place
3 concurrently; or

4 “(4) creditors or other interested persons in a
5 foreign country have an interest in requesting the
6 commencement of, or participating in, a case or pro-
7 ceeding under this title.

8 “(c) This chapter does not apply to—

9 “(1) a proceeding concerning an entity identi-
10 fied by exclusion in subsection 109(b); or

11 “(2) an individual, or to an individual and such
12 individual’s spouse, who have debts within the limits
13 specified in under section 109(e) and who are citi-
14 zens of the United States or aliens lawfully admitted
15 for permanent residence in the United States.

16 “SUBCHAPTER I—GENERAL PROVISIONS

17 **“§ 602. Definitions**

18 “For the purposes of this chapter, the term—

19 “(1) ‘debtor’ means an entity that is the subject
20 of a foreign proceeding;

21 “(2) ‘establishment’ means any place of oper-
22 ations where the debtor carries out a nontransitory
23 economic activity;

1 “(3) ‘foreign court’ means a judicial or other
2 authority competent to control or supervise a foreign
3 proceeding;

4 “(4) ‘foreign main proceeding’ means a foreign
5 proceeding taking place in the country where the
6 debtor has the center of its main interests;

7 “(5) ‘foreign nonmain proceeding’ means a for-
8 eign proceeding, other than a foreign main proceed-
9 ing, taking place in a country where the debtor has
10 an establishment;

11 “(6) ‘trustee’ includes a trustee, a debtor in
12 possession in a case under any chapter of this title,
13 or a debtor under chapters 9 or 13 of this title; and

14 “(7) ‘within the territorial jurisdiction of the
15 United States’ when used with reference to property
16 of a debtor refers to tangible property located within
17 the territory of the United States and intangible
18 property deemed under applicable nonbankruptcy
19 law to be located within that territory, including any
20 property subject to attachment or garnishment that
21 may properly be seized or garnished by an action in
22 a Federal or State court in the United States.

23 **“§ 603. International obligations of the United States**

24 “To the extent that this chapter conflicts with an ob-
25 ligation of the United States arising out of any treaty or

1 other form of agreement to which it is a party with 1 or
2 more other countries, the requirements of the treaty or
3 agreement prevail.

4 **“§ 604. Commencement of ancillary case**

5 “A case under this chapter is commenced by the filing
6 of a petition for recognition of a foreign proceeding under
7 section 615.

8 **“§ 605. Authorization to act in a foreign country**

9 “A trustee or another entity (including an examiner)
10 authorized by the court may be authorized by the court
11 to act in a foreign country on behalf of an estate created
12 under section 541. An entity authorized to act under this
13 section may act in any way permitted by the applicable
14 foreign law.

15 **“§ 606. Public policy exception**

16 “Nothing in this chapter prevents the court from re-
17 fusing to take an action governed by this chapter if the
18 action would be manifestly contrary to the public policy
19 of the United States.

20 **“§ 607. Additional assistance**

21 “(a) Nothing in this chapter limits the power of the
22 court, upon recognition of a foreign proceeding, to provide
23 additional assistance to a foreign representative under this
24 title or under other laws of the United States.

1 “(b) In determining whether to provide additional as-
2 sistance under this title or under other laws of the United
3 States, the court shall consider whether such additional
4 assistance, consistent with the principles of comity, will
5 reasonably assure—

6 “(1) just treatment of all holders of claims
7 against or interests in the debtor’s property;

8 “(2) protection of claim holders in the United
9 States against prejudice and inconvenience in the
10 processing of claims in such foreign proceeding;

11 “(3) prevention of preferential or fraudulent
12 dispositions of property of the debtor;

13 “(4) distribution of proceeds of the debtor’s
14 property substantially in accordance with the order
15 prescribed by this title; and

16 “(5) if appropriate, the provision of an oppor-
17 tunity for a fresh start for the individual that such
18 foreign proceeding concerns.

19 **“§ 608. Interpretation**

20 “‘In interpreting this chapter, the court shall consider
21 its international origin, and the need to promote an appli-
22 cation of this chapter that is consistent with the applica-
23 tion of similar statutes adopted by foreign jurisdictions.

1 “SUBCHAPTER II—ACCESS OF FOREIGN REP-
2 RESENTATIVES AND CREDITORS TO THE
3 COURT

4 **“§ 609. Right of direct access**

5 “(a) A foreign representative is entitled to commence
6 a case under section 604 by filing a petition for recogni-
7 tion under section 615, and upon recognition, to apply di-
8 rectly to other Federal and State courts for appropriate
9 relief in those courts.

10 “(b) Upon recognition, and subject to section 610,
11 a foreign representative has the capacity to sue and be
12 sued, and shall be subject to the laws of the United States
13 of general applicability.

14 “(c) Recognition under this chapter is prerequisite to
15 the granting of comity or cooperation to a foreign proceed-
16 ing in any State or Federal court in the United States.
17 Any request for comity or cooperation in any court shall
18 be accompanied by a sworn statement setting forth wheth-
19 er recognition under section 615 has been sought and the
20 status of any such petition.

21 “(d) Upon denial of recognition under this chapter,
22 the court may issue appropriate orders necessary to pre-
23 vent an attempt to obtain comity or cooperation from
24 courts in the United States without such recognition.

1 **“§ 610. Limited jurisdiction**

2 “The sole fact that a foreign representative files a
3 petition under sections 615 does not subject the foreign
4 representative to the jurisdiction of any court in the Unit-
5 ed States for any other purpose.

6 **“§ 611. Commencement of case under section 301 or**
7 **303**

8 “(a) Upon filing a petition for recognition, a foreign
9 representative may commence—

10 “(1) an involuntary case under section 303; or

11 “(2) a voluntary case under section 301 or 302,
12 if the foreign proceeding is a foreign main proceed-
13 ing.

14 “(b) The petition commencing a case under sub-
15 section (a) of this section must be accompanied by a state-
16 ment describing the petition for recognition and its cur-
17 rent status. The court where the petition for recognition
18 has been filed must be advised of the foreign representa-
19 tive’s intent to commence a case under subsection (a) of
20 this section prior to such commencement.

21 “(c) A case under subsection (a) shall be dismissed
22 unless recognition is granted.

23 **“§ 612. Participation of a foreign representative in a**
24 **case under this title**

25 “Upon recognition of a foreign proceeding, the for-
26 eign representative in that proceeding is entitled to par-

1 ticipate as a party in interest in a case regarding the debt-
2 or under this title.

3 **“§ 613. Access of foreign creditors to a case under**
4 **this title**

5 “(a) Foreign creditors have the same rights regarding
6 the commencement of, and participation in, a case under
7 this title as domestic creditors.

8 “(b)(1) Subsection (a) of this section does not change
9 or codify present law as to the priority of claims under
10 section 507 or 726 of this title, except that the claim of
11 a foreign creditor under those sections shall not be given
12 a lower priority than that of general unsecured claims
13 without priority solely because the holder of such claim
14 is a foreign creditor.

15 “(2)(A) Subsection (a) of this section and paragraph
16 (1) of this subsection do not change or codify present law
17 as to the allowability of foreign revenue claims or other
18 foreign public law claims in a proceeding under this title.

19 “(B) Allowance and priority as to a foreign tax claim
20 or other foreign public law claim shall be governed by any
21 applicable tax treaty of the United States, under the con-
22 ditions and circumstances specified therein.

1 **“§ 614. Notification to foreign creditors concerning a**
2 **case under this title**

3 “(a) Whenever in a case under this title notice is to
4 be given to creditors generally or to any class or category
5 of creditors, such notice shall also be given to the known
6 creditors generally, or to creditors in the notified class or
7 category, that do not have addresses in the United States.
8 The court may order that appropriate steps be taken with
9 a view to notifying any creditor whose address is not yet
10 known.

11 “(b) Such notification to creditors with foreign ad-
12 dresses described in subsection (a) shall be given individ-
13 ually, unless the court considers that, under the cir-
14 cumstances, some other form of notification would be
15 more appropriate. No letters rogatory or other similar for-
16 mality is required.

17 “(c) When a notification of commencement of a case
18 is to be given to foreign creditors, the notification shall—

19 “(1) indicate the time period for filing proofs of
20 claim and specify the place for their filing;

21 “(2) indicate whether secured creditors need to
22 file their proofs of claim; and

23 “(3) contain any other information required to
24 be included in such a notification to creditors pursu-
25 ant to this title and the orders of the court.

1 “(d) Any rule of procedure or order of the court as
2 to notice or the filing of a claim shall provide such addi-
3 tional time to creditors with foreign addresses as is rea-
4 sonable under the circumstances.

5 “SUBCHAPTER III—RECOGNITION OF A
6 FOREIGN PROCEEDING AND RELIEF

7 **“§ 615. Application for recognition of a foreign pro-**
8 **ceeding**

9 “(a) A foreign representative applies to the court for
10 recognition of the foreign proceeding in which the foreign
11 representative has been appointed by filing a petition for
12 recognition.

13 “(b) A petition for recognition shall be accompanied
14 by—

15 “(1) a certified copy of the decision commenc-
16 ing the foreign proceeding and appointing the for-
17 eign representative;

18 “(2) a certificate from the foreign court affirm-
19 ing the existence of the foreign proceeding and of
20 the appointment of the foreign representative; or

21 “(3) in the absence of evidence referred to in
22 paragraphs (1) and (2), any other evidence accept-
23 able to the court of the existence of the foreign pro-
24 ceeding and of the appointment of the foreign rep-
25 resentative.

1 “(c) A petition for recognition shall also be accom-
2 panied by a statement identifying all foreign proceedings
3 with respect to the debtor that are known to the foreign
4 representative.

5 “(d) The documents referred to in paragraphs (1)
6 and (2) of subsection (b) must be translated into English.
7 The court may require a translation into English of addi-
8 tional documents.

9 **“§ 616. Presumptions concerning recognition**

10 “(a) If the decision or certificate referred to in section
11 615(b) indicates that the foreign proceeding is a foreign
12 proceeding within the meaning of section 101(23) and that
13 the person or body is a foreign representative within the
14 meaning of section 101(24), the court is entitled to so pre-
15 sume.

16 “(b) The court is entitled to presume that documents
17 submitted in support of the petition for recognition are
18 authentic, whether or not they have been legalized .

19 “(c) In the absence of evidence to the contrary, the
20 debtor’s registered office, or habitual residence in the case
21 of an individual, is presumed to be the center of the debt-
22 or’s main interests.

23 **“§ 617. Order recognizing a foreign proceeding**

24 “(a) Subject to section 606, an order recognizing a
25 foreign proceeding shall be entered if—

1 “(1) the foreign proceeding is a foreign main
2 proceeding or foreign nonmain proceeding within the
3 meaning of section 602;

4 “(2) the foreign representative applying for rec-
5 ognition is a person or body within the meaning of
6 section 101(24); and

7 “(3) the petition meets the requirements of sec-
8 tion 615.

9 “(b) The foreign proceeding shall be recognized—

10 “(1) as a foreign main proceeding if it is taking
11 place in the country where the debtor has the center
12 of its main interests; or

13 “(2) as a foreign nonmain proceeding if the
14 debtor has an establishment within the meaning of
15 section 602 in the foreign country where the pro-
16 ceeding is pending.

17 “(c) A petition for recognition of a foreign proceeding
18 shall be decided upon at the earliest possible time. Entry
19 of an order recognizing a foreign proceeding shall con-
20 stitute recognition under this chapter.

21 “(d) The provisions of this subchapter do not prevent
22 modification or termination of recognition if it is shown
23 that the grounds for granting it were fully or partially
24 lacking or have ceased to exist, but in considering such
25 action the court shall give due weight to possible prejudice

1 to parties that have relied upon the granting of recogni-
2 tion. The case under this chapter may be closed in the
3 manner prescribed for a case under section 350.

4 **“§ 618. Subsequent information**

5 “From the time of filing the petition for recognition
6 of the foreign proceeding, the foreign representative shall
7 file with the court promptly a notice of change of status
8 concerning—

9 “(1) any substantial change in the status of the
10 foreign proceeding or the status of the foreign rep-
11 resentative’s appointment; and

12 “(2) any other foreign proceeding regarding the
13 debtor that becomes known to the foreign represent-
14 ative.

15 **“§ 619. Relief that may be granted upon petition for**
16 **recognition of a foreign proceeding**

17 “(a) From the time of filing a petition for recognition
18 until the petition is decided upon, the court may, at the
19 request of the foreign representative, where relief is ur-
20 gently needed to protect the assets of the debtor or the
21 interests of the creditors, grant relief of a provisional na-
22 ture, including—

23 “(1) staying execution against the debtor’s as-
24 sets;

1 “(2) entrusting the administration or realiza-
2 tion of all or part of the debtor’s assets located in
3 the United States to the foreign representative or
4 another person authorized by the court, including an
5 examiner, in order to protect and preserve the value
6 of assets that, by their nature or because of other
7 circumstances, are perishable, susceptible to devalu-
8 ation or otherwise in jeopardy; and

9 “(3) any relief referred to in paragraph (3),
10 (4), or (7) of section 621(a).

11 “(b) Unless extended under section 621(a)(6), the re-
12 lief granted under this section terminates when the peti-
13 tion for recognition is decided upon.

14 “(c) It is a ground for denial of relief under this sec-
15 tion that such relief would interfere with the administra-
16 tion of a foreign main proceeding.

17 “(d) The court may not enjoin a police or regulatory
18 act of a governmental unit, including a criminal action or
19 proceeding, under this section.

20 “(e) The standards, procedures, and limitations ap-
21 plicable to an injunction shall apply to relief under this
22 section.

1 **“§ 620. Effects of recognition of a foreign main pro-**
2 **ceeding**

3 “(a) Upon recognition of a foreign proceeding that
4 is a foreign main proceeding—

5 “(1) section 362 applies with respect to the
6 debtor and that property of the debtor that is within
7 the territorial jurisdiction of the United States; and

8 “(2) transfer, encumbrance, or any other dis-
9 position of an interest of the debtor in property
10 within the territorial jurisdiction of the United
11 States is restrained as and to the extent that is pro-
12 vided for property of an estate under sections 363,
13 549, and 552.

14 Unless the court orders otherwise, the foreign representa-
15 tive may operate the debtor’s business and may exercise
16 the powers of a trustee under section 549, subject to sec-
17 tions 363 and 552.

18 “(b) The scope, and the modification or termination,
19 of the stay and restraints referred to in subsection (a) of
20 this section are subject to the exceptions and limitations
21 provided in subsections (b), (c), and (d) of section 362,
22 subsections (b) and (c) of section 363, and sections 552,
23 555 through 557, 559, and 560.

24 “(c) Subsection (a) of this section does not affect the
25 right to commence individual actions or proceedings in a

1 foreign country to the extent necessary to preserve a claim
2 against the debtor.

3 “(d) Subsection (a) of this section does not affect the
4 right of a foreign representative or an entity to file a peti-
5 tion commencing a case under this title or the right of
6 any party to file claims or take other proper actions in
7 such a case.

8 **“§ 621. Relief that may be granted upon recognition**
9 **of a foreign proceeding**

10 “(a) Upon recognition of a foreign proceeding, wheth-
11 er main or nonmain, where necessary to effectuate the
12 purpose of this chapter and to protect the assets of the
13 debtor or the interests of the creditors, the court may, at
14 the request of the foreign representative, grant any appro-
15 priate relief, including—

16 “(1) staying the commencement or continuation
17 of individual actions or individual proceedings con-
18 cerning the debtor’s assets, rights, obligations or li-
19 abilities to the extent they have not been stayed
20 under section 620(a);

21 “(2) staying execution against the debtor’s as-
22 sets to the extent it has not been stayed under sec-
23 tion 620(a);

24 “(3) suspending the right to transfer, encumber
25 or otherwise dispose of any assets of the debtor to

1 the extent this right has not been suspended under
2 section 620(a);

3 “(4) providing for the examination of witnesses,
4 the taking of evidence or the delivery of information
5 concerning the debtor’s assets, affairs, rights, obliga-
6 tions or liabilities;

7 “(5) entrusting the administration or realiza-
8 tion of all or part of the debtor’s assets within the
9 territorial jurisdiction of the United States to the
10 foreign representative or another person, including
11 an examiner, authorized by the court;

12 “(6) extending relief granted under section
13 619(a); and

14 “(7) granting any additional relief that may be
15 available to a trustee, except for relief available
16 under sections 522, 544, 545, 547, 548, 550, and
17 724(a).

18 “(b) Upon recognition of a foreign proceeding, wheth-
19 er main or nonmain, the court may, at the request of the
20 foreign representative, entrust the distribution of all or
21 part of the debtor’s assets located in the United States
22 to the foreign representative or another person, including
23 an examiner, authorized by the court, provided that the
24 court is satisfied that the interests of creditors in the
25 United States are sufficiently protected.

1 “(c) In granting relief under this section to a rep-
2 resentative of a foreign nonmain proceeding, the court
3 must be satisfied that the relief relates to assets that,
4 under the law of the United States, should be adminis-
5 tered in the foreign nonmain proceeding or concerns infor-
6 mation required in that proceeding.

7 “(d) The court may not enjoin a police or regulatory
8 act of a governmental unit, including a criminal action or
9 proceeding, under this section.

10 “(e) The standards, procedures, and limitations
11 applicable to an injunction shall apply to relief under
12 paragraphs (1), (2), (3), and (6) of subsection (a).

13 **“§ 622. Protection of creditors and other interested**
14 **persons**

15 “(a) In granting or denying relief under section 619
16 or 621, or in modifying or terminating relief under sub-
17 section (c) of this section, the court must find that the
18 interests of the creditors and other interested persons or
19 entities, including the debtor, are sufficiently protected.

20 “(b) The court may subject relief granted under sec-
21 tion 619 or 621 to conditions it considers appropriate.

22 “(c) The court may, at the request of the foreign rep-
23 resentative or an entity affected by relief granted under
24 section 619 or 621, or at its own motion, modify or termi-
25 nate such relief.

1 **“§ 623. Actions to avoid acts detrimental to creditors**

2 “(a) Upon recognition of a foreign proceeding, the
3 foreign representative has standing in a pending case
4 under another chapter of this title to initiate actions under
5 sections 522, 544, 545, 547, 548, 550, and 724(a).

6 “(b) When the foreign proceeding is a foreign
7 nonmain proceeding, the court must be satisfied that an
8 action under subsection (a) of this section relates to assets
9 that, under United States law, should be administered in
10 the foreign nonmain proceeding.

11 **“§ 624. Intervention by a foreign representative**

12 “Upon recognition of a foreign proceeding, the for-
13 eign representative may intervene in any proceedings in
14 a State or Federal court in the United States in which
15 the debtor is a party.

16 **“SUBCHAPTER IV—COOPERATION WITH FOR-**
17 **EIGN COURTS AND FOREIGN REPRESENTA-**
18 **TIVES**

19 **“§ 625. Cooperation and direct communication be-**
20 **tween the court and foreign courts or for-**
21 **ign representatives**

22 “(a) In all matters included within section 601, the
23 court shall cooperate to the maximum extent possible with
24 foreign courts or foreign representatives, either directly or
25 through the trustee.

1 “(b) The court is entitled to communicate directly
2 with, or to request information or assistance directly from,
3 foreign courts or foreign representatives, subject to the
4 rights of parties in interest to notice and participation.

5 **“§ 626. Cooperation and direct communication be-**
6 **tween the trustee and foreign courts or**
7 **foreign representatives**

8 “(a) In all matters included in section 601, the trust-
9 ee or other person, including an examiner, authorized by
10 the court, shall, subject to the supervision of the court,
11 cooperate to the maximum extent possible with foreign
12 courts or foreign representatives.

13 “(b) The trustee or other person, including an exam-
14 iner, designated by the court is entitled, subject to the su-
15 pervision of the court, to communicate directly with for-
16 eign courts or foreign representatives.

17 “(c) Section 1104(d) shall apply to the appointment
18 of an examiner under this chapter. Any examiner shall
19 comply with the qualification requirements imposed on a
20 trustee by section 322.

21 **“§ 627. Forms of cooperation**

22 “Cooperation referred to in sections 625 and 626
23 may be implemented by any appropriate means, includ-
24 ing—

1 “(1) appointment of a person or body, including
2 an examiner, to act at the direction of the court;

3 “(2) communication of information by any
4 means considered appropriate by the court;

5 “(3) coordination of the administration and su-
6 pervision of the debtor’s assets and affairs;

7 “(4) approval or implementation of agreements
8 concerning the coordination of proceedings; and

9 “(5) coordination of concurrent proceedings re-
10 garding the same debtor.

11 “SUBCHAPTER V—CONCURRENT PROCEEDINGS

12 **“§ 628. Commencement of a case under this title after**
13 **recognition of a foreign main proceeding**

14 “After recognition of a foreign main proceeding, a
15 case under another chapter of this title may be commenced
16 only if the debtor has assets in the United States. The
17 effects of that case shall be restricted to the assets of the
18 debtor that are within the territorial jurisdiction of the
19 United States and, to the extent necessary to implement
20 cooperation and coordination under sections 625, 626, and
21 627, to other assets of the debtor that are within the juris-
22 diction of the court under sections 541(a) of this title, and
23 1334(e) of title 28, to the extent that such other assets
24 are not subject to the jurisdiction and control of a foreign
25 proceeding that has been recognized under this chapter.

1 **“§ 629. Coordination of a case under this title and a**
2 **foreign proceeding**

3 “Where a foreign proceeding and a case under an-
4 other chapter of this title are taking place concurrently
5 regarding the same debtor, the court shall seek coopera-
6 tion and coordination under sections 625, 626, and 627,
7 and the following shall apply:

8 “(1) When the case in the United States is tak-
9 ing place at the time the petition for recognition of
10 the foreign proceeding is filed—

11 “(A) any relief granted under sections 619
12 or 621 must be consistent with the case in the
13 United States; and

14 “(B) even if the foreign proceeding is rec-
15 ognized as a foreign main proceeding, section
16 620 does not apply.

17 “(2) When a case in the United States under
18 this title commences after recognition, or after the
19 filing of the petition for recognition, of the foreign
20 proceeding—

21 “(A) any relief in effect under sections 619
22 or 621 shall be reviewed by the court and shall
23 be modified or terminated if inconsistent with
24 the case in the United States; and

25 “(B) if the foreign proceeding is a foreign
26 main proceeding, the stay and suspension re-

1 ferred to in section 620(a) shall be modified or
2 terminated if inconsistent with the case in the
3 United States.

4 “(3) In granting, extending, or modifying relief
5 granted to a representative of a foreign nonmain
6 proceeding, the court must be satisfied that the re-
7 lief relates to assets that, under the law of the Unit-
8 ed States, should be administered in the foreign
9 nonmain proceeding or concerns information re-
10 quired in that proceeding.

11 “(4) In achieving cooperation and coordination
12 under sections 628 and 629, the court may grant
13 any of the relief authorized under section 305.

14 **“§ 630. Coordination of more than 1 foreign proceed-**
15 **ing**

16 “In matters referred to in section 601, with respect
17 to more than 1 foreign proceeding regarding the debtor,
18 the court shall seek cooperation and coordination under
19 sections 625, 626, and 627, and the following shall apply:

20 “(1) Any relief granted under section 619 or
21 621 to a representative of a foreign nonmain pro-
22 ceeding after recognition of a foreign main proceed-
23 ing must be consistent with the foreign main pro-
24 ceeding.

1 “(2) If a foreign main proceeding is recognized
2 after recognition, or after the filing of a petition for
3 recognition, of a foreign nonmain proceeding, any
4 relief in effect under section 619 or 621 shall be re-
5 viewed by the court and shall be modified or termi-
6 nated if inconsistent with the foreign main proceed-
7 ing.

8 “(3) If, after recognition of a foreign nonmain
9 proceeding, another foreign nonmain proceeding is
10 recognized, the court shall grant, modify, or termi-
11 nate relief for the purpose of facilitating coordina-
12 tion of the proceedings.

13 **“§ 631. Presumption of insolvency based on recogni-**
14 **tion of a foreign main proceeding**

15 “In the absence of evidence to the contrary, recogni-
16 tion of a foreign main proceeding is for the purpose of
17 commencing a proceeding under section 303, proof that
18 the debtor is generally not paying its debts.

19 **“§ 632. Rule of payment in concurrent proceedings**

20 “Without prejudice to secured claims or rights in
21 rem, a creditor who has received payment with respect to
22 its claim in a foreign proceeding pursuant to a law relating
23 to insolvency may not receive a payment for the same
24 claim in a case under any other chapter of this title re-
25 garding the debtor, so long as the payment to other credi-

1 tors of the same class is proportionately less than the pay-
2 ment the creditor has already received.”.

3 (b) CLERICAL AMENDMENT.—The table of chapters
4 for title 11, United States Code, is amended by inserting
5 after the item relating to chapter 5 the following:

“6. Ancillary and Other Cross-Border Cases 601”.

6 **SEC. 602. AMENDMENTS TO OTHER CHAPTERS IN TITLE 11,**
7 **UNITED STATES CODE.**

8 (a) APPLICABILITY OF CHAPTERS.—Section 103 of
9 title 11, United States Code, is amended—

10 (1) in subsection (a), by inserting before the pe-
11 riod the following: “and this chapter, sections 307,
12 555 through 557, 559, and 560 apply in a case
13 under chapter 6”; and

14 (2) by adding at the end the following:

15 “(j) Chapter 6 applies only in a case under that chap-
16 ter, except that section 605 applies to trustees and to any
17 other entity authorized by the court, including an exam-
18 iner, under chapters 7, 11, and 12, to debtors in posses-
19 sion under chapters 11 and 12, and to debtors or trustees
20 under chapters 9 and 13 who are authorized to act under
21 section 605.”.

22 (b) DEFINITIONS.—Section 101 of title 11, United
23 States Code, is amended by striking paragraphs (23) and
24 (24) and inserting the following:

1 “(23) ‘foreign proceeding’ means a collective ju-
2 dicial or administrative proceeding in a foreign state,
3 including an interim proceeding, pursuant to a law
4 relating to insolvency in which proceeding the assets
5 and affairs of the debtor are subject to control or
6 supervision by a foreign court, for the purpose of re-
7 organization or liquidation;

8 “(24) ‘foreign representative’ means a person
9 or body, including a person or body appointed on an
10 interim basis, authorized in a foreign proceeding to
11 administer the reorganization or the liquidation of
12 the debtor’s assets or affairs or to act as a rep-
13 resentative of the foreign proceeding;”.

14 (c) AMENDMENTS TO TITLE 28, UNITED STATES
15 CODE.—

16 (1) PROCEDURES.—Section 157(b)(2) of title
17 28, United States Code, is amended—

18 (A) in subparagraph (N), by striking
19 “and” at the end;

20 (B) in subparagraph (O), by striking the
21 period at the end and inserting “; and”; and

22 (C) by adding at the end the following:

23 “(P) recognition of foreign proceedings
24 and other matters under chapter 6.”.

1 (2) BANKRUPTCY CASES AND PROCEEDINGS.—
2 Section 1334(c) of title 28, United States Code, is
3 amended by striking “Nothing in” and inserting
4 “Except with respect to a case under chapter 6 of
5 title 11, nothing in”.

6 (3) DUTIES OF TRUSTEES.—Section 586(a)(3)
7 of title 28, United States Code, is amended by in-
8 serting “6,” after “chapter”.

9 **TITLE VII—MISCELLANEOUS**

10 **SEC. 701. TECHNICAL AMENDMENTS.**

11 Title 11 of the United States Code is amended—
12 (1) in section 109(b)(2) by striking “subsection
13 (c) or (d) of”;
14 (2) in section 541(b)(4) by adding “or” at the
15 end; and
16 (3) in section 552(b)(1) by striking “product”
17 each place it appears and inserting “products”.

18 **SEC. 702. APPLICATION OF AMENDMENTS.**

19 The amendments made by this Act shall apply only
20 with respect to cases commenced under title 11 of the
21 United States Code after the date of the enactment of this
22 Act.